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original staff report

Th7a

Prepared April 15, 2015 (for April 16, 2015 hearing)

To: Coastal Commissioners and Interested Persons

From: Nancy Cave, District Manager
Kevin Kahn, District Supervisor

**Subject: STAFF REPORT ADDENDUM for Th7a
Marin County Local Coastal Program Amendment Number LCP-2-MAR-13-
0224-1 Part B (Marin Implementation Plan Update).**

The purpose of this addendum is to supplement the recommended findings with additional clarification and to change some of the staff recommendation on particular suggested modifications, both as presented in the staff report dated prepared April 2, 2015. Specifically, this addendum supplements and makes minor changes to the staff recommended findings related to agriculture, hazards, visual resources, and coastal development permit (CDP) procedures. It also makes certain changes to the staff recommended suggested modifications, as shown below (where applicable, text in double underline format indicates additional text that is being suggested, and text in ~~double strikethrough~~ format indicates additional text suggested for deletion).

The findings below are hereby incorporated by reference into the relevant sections of the staff report dated April 2, 2015 and will appear as Commission findings if the staff recommendation is adopted by the Commission.

1. Additional response to comments

Insert the following in Section III.B.8 “Response to Public Comments” on page 89 of the Staff Report, after the sentence ending with “...even if the proposed development is development that is principally permitted or eligible for streamlined permit processing, including though local appeals.”:

Agricultural Dwelling Units

County staff has expressed concern about the IP’s agricultural dwelling provisions, claiming that the policies as modified will encourage farmers to sell their lots, break up their farms, and risk their agricultural enterprise in order to circumvent the IP’s requirements and build additional dwellings. However, as explained in detail elsewhere in this staff report, staff does not believe that the IP’s policies pertaining to agricultural dwelling units will encourage farmers to sell or divide their legal lots. First, because the IP requires 60 acre densities in order to build a

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farmhouse, including requiring a lot to be 120 acres in order to build a farmhouse and an intergenerational home, a farmer has an incentive to retain large lot size. If a farmer had two legal lots of 60 acres each, he/she would have to voluntarily merge the two parcels in order to build a farmhouse and intergenerational home; otherwise he/she would only be allowed the one farmhouse. Therefore, the policies serve as an incentive to retain large parcel size. Second, because the IP requires deed restrictions as a condition of farmhouse/intergenerational home approval requiring the owner to continuously be actively and directly engaged in agricultural use and ensuring that the lot remains confined to agriculture (in addition to suggested modifications that prohibit allowing single-family residences up to the zoning density as an allowed use), land values are driven agriculturally as opposed to residentially. Therefore, the threat of converting agricultural lands to places suitable for large residential estates owned and occupied by residents who have no intention of actively farming the land is reduced. And finally, Marin County farmers have an economic incentive to retain large land holdings. Agricultural production is their livelihood, and it does not appear likely that a farmer would voluntarily sell his or her land and put their livelihood at risk.

Coastal Hazards

The County has expressed concern with both the LUP as certified by the Commission and the modified IP's environmental hazards policies and standards. County staff believes that the policies are complex and will take time to fully understand. The Commission concurs with the County's assessment, and recognizes that LCP policies addressing hazards is a continuously evolving endeavor based on new scientific evidence. The Commission issued grant monies to the County for this particular purpose: study the threats facing Marin's coastline and develop appropriate policy responses in a public setting and through a robust public process to address and proactively abate those threats. The Commission expects that the County will submit a thorough and robust LCP amendment submittal at the conclusion of this coastal hazards process that will address any remaining issues with the LCP update's hazards policies. In the interim, however, the Commission-certified LUP and the IP as suggested to be modified offers a detailed and encompassing hazards response framework that is based largely on the Commission's Draft Sea-Level Rise Policy Guidance and is consistent with recent LCP amendments approved by the Commission on these complicated land use planning issues.

Public comments have stated that requiring an Environmental Hazards Report for areas potentially inundated by sea level rise for a 100 year period is tantamount to requiring such analysis for all low-lying areas, since the level of uncertainty with respect to projected sea levels on such a long time horizon is certain to result in a conclusion that the site may be subject to hazards within the timeframe, and therefore must prepare the required report. The commenters request that 100 years not be used as the time horizon, and also that the IP provide more specificity about sea levels. However, 100 years is the LUP standard as proposed by the County and approved by the Commission last May; therefore, it would not be consistent with the LUP to proffer a different timeframe. Furthermore, the fact that sea-level rise is subject to such uncertainty, as the commenters acknowledge, is the precise reason why the IP is structured in a manner as to require the Environmental Hazards Report.

IP Section 22.64.060(A)(1)(a) requires an initial site assessment screening of all CDP applications to ascertain whether the site may be subject to hazards. The section requires the use

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of the best available science, and offers a definition of what the best available science is as it relates to sea-level rise. Per Section 22.64.060(A)(1)(b), if the site is located in an area that may be subject to those hazards, based on the initial review, then the Environmental Hazards Report is required. It is certainly possible, that after further review and study of the site's particulars by qualified engineering professionals, and with the inclusion of specified geologic recommendations, that the Environmental Hazards Report determines that the site can be safely developed and meet the LCP's structural stability tests without shoreline protection. Conversely, the report may reach the opposite conclusion. In essence, the IP is structured in a manner so as to cast a wider net with respect to the initial site assessment's hazards screening, and to have the more specific determination that a site can be safely developed be made by qualified engineers in an Environmental Hazards Report. The IP takes a cautious approach in hazards evaluation, particularly as a response to such uncertainty with sea-level rise, and no additional modifications are required.

Public Hearing Requirements

Public comments have asserted that the IP as suggested to be modified does not provide for maximum public participation consistent with the Coastal Act, particular with respect to a lack of required public hearings. However, as discussed further below, while development that is reviewed by the Planning Director is not subject to a public hearing, if that initial decision is appealed to the Planning Commission, a public hearing will occur. Interested persons are thereby afforded the opportunity to appeal a Planning Director's action and participate in a public hearing because a CDP that is locally appealable is still required even though the Planning Director's action without a hearing was the first step in the process.

More specifically, the Commission's regulations only require a public hearing for CDPs involving development appealable to the Commission (see Title 14 of the California Code of Regulations (CCR) Sections 13566 and 13568, and Marin County's currently certified IP Section 22.56.070(B)). By designating development as principally permitted, such development will only be appealable to the Commission if it is otherwise appealable based on its geographic location (which, as discussed in detail on pages 36-38 of this report, is a primary reason for suggested modifications to ensure that principally permitted development within the C-APZ district meets objective, enforceable standards). However, even though the County does not require the Planning Director to have a hearing for a CDP involving non-appealable development if no other local hearing is required (again, as is allowed per CCR Sections 13566 and 13568), the Planning Director's action is internally appealable, and if appealed locally, will result in a public hearing before the Planning Commission and/or the Board of Supervisors. Furthermore, development designated as principally permitted that is not otherwise appealable to the Commission and requires no other local hearing still requires a CDP and the Planning Director must still provide interested persons with notice of the Planning Director's prospective action.

As modified, IP Section 22.70.030(B) requires the County to notice all permit category determinations based on the type of determination (i.e., the notice must be sent within 5 working days for a determination that a proposed development is categorically excluded; at least 10 days prior to a hearing or action for de minimis waivers, non-public hearing applications, and public hearing applications; at least 15 working days before the required Planning Commission hearing for a public hearing waiver application; and within 30 days of an exemption determination).

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Once the County determines and notices the permit category, IP Section 22.70.040, as modified, allows all such determinations to be challenged to the Commission. For example, if an interested person disputes the County determination to classify a particular development project as non-appealable, arguing instead that the project should be considered appealable to the Coastal Commission, they may challenge the County's determination to the Commission, where ultimately the Commission would decide on the proper determination.

Next, IP Section 22.70.080, as modified, allows *all* CDP decisions to be appealed to either the Planning Commission and/or the Board of Supervisors, triggering a required public hearing. Thus, if an interested person disputes the Director's decision on a non-public hearing CDP application, he/she may appeal that decision to the Planning Commission for public hearing. Finally, after exhausting all local appeals, if the development meets the criteria set forth in IP Section 22.70.080(B)(1), which mirrors Coastal Act Section 30603's listing of the types of projects that are appealable to the Coastal Commission, the interested person may also appeal the County's decision to the Commission.

Therefore, the IP as modified sets up a very robust CDP processing program that allows for maximum public involvement in CDP decisions, including articulating required noticing procedures, allowing a challenge to the Commission regarding the appropriate processing of each of the six types of CDP processes, and allowing for local appeal of all CDP actions, thereby ensuring an interested person's ability to trigger a public hearing.

Mariculture Facilities

Public comments have requested that onshore facilities used in mariculture operations be limited to shellfish cultivated and harvested solely in Tomales Bay. However, LUP Policy C-AG-2 and IP Chapter 22.130 define mariculture as a type of agricultural production use. Therefore, to the extent that such mariculture activities are subject to the LCP (and not the Coastal Act because they are located within the Commission's retained CDP permitting jurisdiction), the LCP's agricultural policies would apply, including those that allow for products to come from the Marin and Sonoma County farmsheds to be principally permitted, and those from outside to be appealable. Therefore, it would be internally inconsistent to have a different, more limiting standard for mariculture facilities, and no additional modifications to the IP's mariculture standards are suggested in this respect.

Viticulture Development

Public comments have discussed adding additional standards that viticulture must meet, including additional standards for water usage, habitat impacts, and water quality. As discussed in pages 39-42 of this report, the IP states that ongoing agricultural production activities do not require a CDP, but that new or expanded agricultural production activities constitute development requiring a CDP. Therefore, expanding agricultural activities into never before farmed areas, including viticulture development, constitutes development requiring a CDP that is consistent with all applicable LCP policies, including the standards and findings listed in IP Section 22.65.040(C)(1). This IP section applies to all agricultural development within C-APZ lands and requires findings that there is adequate water supply, sewage disposal, road access and capacity, and other public services to serve the development after taking into account the needs of existing agricultural production activities; that the development shall have no significant

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adverse impacts on environmental quality or natural habitats and meet all other LCP policies (including those that prohibit new agricultural development within ESHA and its buffer); and that the production activity shall not adversely impact stream or wetland habitats, have significant effects on groundwater resources, or significantly reduce freshwater inflows to water bodies including Tomales Bay, either individually or cumulatively. Therefore, the LCP already includes numerous policies to ensure that new or expanded agricultural production activities, including viticulture, are considered to be development and therefore required to meet the LCP's coastal resource protection standards, while also offering streamlining of required permitting to ensure that this Coastal Act and LUP priority use is appropriately encouraged and strengthened. Thus, additional standards specific to viticulture are not necessary as the existing standards, as proposed to be modified, appropriately address potential coastal resource concerns.

Coastal Development Permit Exclusions and Exemptions

Some public comments have requested adding additional parameters for the types of development that may be exempted or excluded from CDP requirements, including adding additional findings that excluded development meet visual resource protection standards. IP Chapters 22.68 and 22.70 specify in detail the types of activities that are excluded or exempt from CDP requirements. Since state law prescribes what is or is not exempt from CDP requirements and Commission-adopted Categorical Exclusion Orders prescribe what is or is not excluded, these IP chapters must either reflect the exact language set forth in the Coastal Act and its implementing regulations or refer to the Categorical Exclusion Order adopted by the Commission. Thus, suggested changes to these sections that do not conform in that way cannot be found consistent with the Act and the LUP. The suggested modifications are designed to conform exemptions and exclusions to what is prescribed by the law and/or already adopted in an Exclusion Order. Should the County wish to exempt additional categories of development from CDP requirements that aren't covered by the law or the existing Exclusion Orders, then the County, whether prompted by public commenters or not, would need to apply to the Commission to change the existing Exclusion Orders and/or to adopt new Exclusion Orders. Any such changes or new Orders are subject to a two-thirds majority vote of the Commission, and would need to meet the required findings for such Orders (as previously described).

De Minimis Waivers

Several public comments assert that the Coastal Act does not authorize the Commission to delegate to the County the authority to issue de minimis waivers that is provided by Coastal Act Section 30624.7 and incorporated into IP Section 22.68.070. However, these public comments are inaccurate because Section 30519 of the Coastal Act expressly authorizes delegation to the local government of all of the development review authority provided for in Chapter 7 of the Coastal Act, the Chapter containing Coastal Act Section 30624.7. In addition, the IP process identified allows the Executive Director to object to a waiver, which serves to codify the Executive Director's function and authority with respect to waivers (that is identified in CCR Section 13238) in the LCP.

Public Hearing Waivers

Several public comments request that the Commission require public hearing waivers, allowed for certain types of development meeting criteria for consideration as minor development, be supported by written determinations. However, Coastal Act Section 30624.9, which identifies the

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process for consideration of such minor development without a hearing, does not require that the local government determine in writing whether development is minor and therefore qualifies for a hearing waiver. Additionally, under both the statute and IP Section 22.70.030, a public hearing waiver can only be authorized if interested persons decline to request the otherwise required public hearing. If a public hearing for minor development is requested, the waiver procedure will not be utilized and the otherwise required public hearing will occur, as is specified by the Coastal Act.

Emergency Coastal Development Permit Issuance

Several public comments assert, based on Coastal Act Section 30624(c), that IP Section 22.70.140 impermissibly authorizes the Planning Director to issue an emergency CDP without that permit subsequently being agendaized on the agenda of the governing body. The section cited by the public commenters, Section 30624(c), references a process unique to local governments issuing CDPs pursuant to Section 30600.5, a section of the Coastal Act governing the issuance of CDPs by local governments pursuant to a Commission-certified Land Use Plan and without an Implementation Plan. This unique processing situation is not applicable to Marin County, and the IP section addressing emergency CDPs, as suggested to be modified, is consistent with the Coastal Act.

Criteria To Avoid a Takings

Several public comments assert that criteria to avoid a takings should not be inserted into the LCP because neither the Commission nor the local government can adjudicate a takings claim and therefore deviation from otherwise applicable LCP standards should not be authorized in order to avoid a takings. The Commission has approved numerous LCPs that implement the mandate of Coastal Act Section 30010, directing that the Coastal Act shall not be construed as authorizing neither the Commission nor the local government to exercise their power to grant or deny a permit in a manner that will “take private property for public use without the payment of just compensation.” The Commission itself has a longstanding practice of applying the Coastal Act, on a case by case basis, in a manner consistent with Section 30010 if there is substantial evidence that no development consistent with the Coastal Act or LCP policies might avoid a taking. This practice is both reasonable and entitled to great weight. To do otherwise, regardless of the seriousness of a particular takings risk, would subject the Commission, and a local government implementing its LCP, to the risk of the permit action being overturned, liability for takings damages, and the payment of attorney’s fees.

In addition, although a local government is bound by Coastal Act Section 30010 whether or not takings avoidance criteria are set forth in a LCP, the addition of such criteria serves to provide all interested persons with a more systematic approach to evaluate whether there is substantial evidence of a takings risk and decreases the possibility of variability in implementation. Therefore, the Commission finds that the proposed takings avoidance criteria in IP Section 22.70.180, as modified, will assist the County in more effectively carrying out the provisions of its LCP consistent with the directives of Coastal Act Section 30010.

Visual Resource Protection

Public comments have asserted that the IP’s visual resource protection standards are insufficient since they simply cross-reference back to LUP policies. Specifically, they suggest that there be a

more detailed definition of public viewshed as scenic areas seen from public waters, recreation areas, beaches, and trails. However, LUP Policy C-DES-2 already defines scenic views to include these areas, stating that “significant views” are defined to include “views both to and along the ocean and scenic coastal areas as seen from public viewing areas such as highways, roads, beaches, parks, coastal trails and accessways, vista points, and coastal streams and waters used for recreational purposes”. Therefore, the LCP sufficiently addresses public view protection. Finally, comments have suggested adding in a required standard that development not impair or obstruct the public viewshed. However, this language would be inconsistent with LUP Policy C-DES-2, which states that “development shall be sited and designed to protect significant views...”, which is consistent with the terminology used in Coastal Act Section 30251 of which this LUP policy derives. Furthermore, other LUP and IP provisions, including those that require development within C-APZ (which totals nearly two-thirds of the non-federal coastal zone) to be clustered within existing structures, that prohibit development along ridgelines, and that limit heights to 25 feet throughout the coastal zone sufficiently address visual resource protection requirements, and no additional modifications are required.

2. Agricultural Dwelling Units

Marin County staff has requested that language be added within IP Section 22.65.040(C)(1)(e)(4) to clarify that legal lots zoned C-APZ that comprise a farm may be sold, and to clarify that the required deed restriction for a farmhouse/intergenerational home approval is only recorded against the legal lot upon which the dwelling unit is located and not on the other legal lots that comprise the farm. This IP section allows only one farmhouse or a combination of one farmhouse and up to two intergenerational homes per farm, regardless of the number of legal lots the farm owner or operator owns that comprise the farm. Furthermore, per subsection (e)(5), the lot containing the approved farmhouse/intergenerational home would be required to record a deed restriction against the legal lot specifying that the owner of the dwelling unit will be actively and directly engaged in agricultural use of that property, and that the property shall remain confined to agriculture, all as more detailed on pages 31-33 of the staff report. The IP is not, however, meant to in any way preclude the ability of farmers to sell their legal lots, whether it be the lot containing the agricultural dwelling unit or any other lot that constitutes the farm, nor is it structured in a manner as to record a restriction against any of the other legal lots making up the farm.

County staff has expressed concern about the IP’s agricultural dwelling provisions, claiming that the policies as modified will encourage farmers to sell their lots, break up their farms, and risk their agricultural enterprise in order to circumvent the IP’s requirements and build additional dwellings. However, as explained in detail on pages 31 and 85-87 of the staff report, and based off the existing certified LCP’s requirements, staff does not believe that the proposed IP’s policies pertaining to agricultural dwelling units will encourage farmers to sell or divide their legal lots. First, because the IP requires 60 acre densities in order to build a farmhouse, including requiring a lot to be 120 acres in order to build a farmhouse and an intergenerational home, a farmer has an incentive to retain large lot size. If a farmer had two legal lots of 60 acres each, he/she would have to voluntarily merge the two parcels in order to build a farmhouse and intergenerational home; otherwise he/she would only be allowed the one farmhouse. Therefore, the policies serve as an incentive to retain large parcel size. Second, because the IP requires deed restrictions as a condition of farmhouse/intergenerational home approval requiring the owner to

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continuously be actively and directly engaged in agricultural use and ensuring that the lot remains confined to agriculture (in addition to suggested modifications that prohibit allowing single-family residences up to the zoning density as an allowed use), land values are driven agriculturally as opposed to residentially. Therefore, the threat of converting agricultural lands to places suitable for large residential estates owned and occupied by residents who have no intention of actively farming the land is reduced. And finally, Marin County farmers have an economic incentive to retain large land holdings. Agricultural production is their livelihood, and to suggest that a farmer would voluntarily sell his or her land and put their livelihood at risk fails to acknowledge and understand the bona fide agriculturalists working Marin's coastal agricultural lands.

Nevertheless, to make these points clearer, the County requested, and staff concurs on inserting, the following language to be added to the IP:

Amend IP Section 22.65.040(C)(1)(e)(4) in Exhibit 1 as follows:

Only one farmhouse or a combination of one farmhouse and up to two intergenerational homes with the combined total of 7,000 square feet (plus the allowed 540 square feet of garage space and 500 square feet of office space in the farmhouse used in connection with the agricultural operation) is allowed for the farm identified in subsection (3) above, regardless of the number of legal lots the farm owner or operator owns that comprise the farm. Nothing in this subsection shall be construed to prohibit the sale of any legal lot comprising the farm, nor require the imposition of any restrictive covenant on any legal lot comprising the farm other than the legal lot upon which development of one farmhouse and up to two intergenerational homes is approved. Future development of other legal lots comprising the farm shall be subject to the provisions of the LCP and Development Code, including but not limited to Section 22.65.040.

3. Agricultural Processing Facilities

Numerous public comments have addressed agricultural processing facilities and retail sales facilities within C-APZ lands, specifically with respect to from where products used in such facilities may originate. LUP Policy C-AG-2 was modified by the Commission at the May 15, 2014 LUP hearing to designate processing and sales facilities that use products grown within the farmshed as principally permitted. The intent was to give the agricultural community more flexibility in their processing and sales facilities, including by allowing for products to come from beyond that which they produce themselves on their immediate farm. In talks with the agricultural community, they suggested defining the "farmshed" as Marin or Sonoma Counties, which became the basis for staff's recommendation in IP Sections 22.65.040(C)(1)(f)(2) and (6) to allow for agricultural products used in processing and sales to be grown in these two counties. Some public comments have suggested that allowing for products to be grown off-site and on farms not owned by the person proposing to process and sell the product will change the character of the agricultural lands into industrial and commercial centers. In further discussion with the County, the County recommends adding language to ensure that the products coming from the farmshed in Marin and Sonoma be limited to that which the owner of the processing or sales facility is directly involved in agricultural production. Staff concurs that this requirement will ensure that the products being processed and sold will appropriately ensure that agriculture

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is enhanced, and recommends that the staff report dated prepared April 2, 2015 be modified as follows:

Modify the following text in the second paragraph on Page 38 of the staff report, after the sentence “These standards include the aforementioned requirements that such facilities not be located on prime agricultural lands, be located within the designated five percent cluster area, and not require any coastal zone variance”, as follows:

Additionally, the section specifies that principally permitted processing and sales facilities shall only use products grown/produced on the same site or on other properties located within Marin County or Sonoma County that the owner of the processing/sales facility is directly involved in agricultural production (thereby defining the “farmshed” concept specified in Policy C-AG-2).

Amend IP Section 22.65.040(C)(1)(f) in Exhibit 1 as follows:

f. Other Agricultural Uses: Agricultural Processing Uses and Agricultural Retail Sales Facilities/Farm Stands shall be classified as principally permitted agricultural uses only when also consistent with the following standards:

Agricultural Processing Uses:

- 1. The building(s) or structure(s) used for processing activities do not exceed an aggregate floor area of 5,000 square feet;*
- 2. With the exception of incidental additives or ingredients, agricultural products to be processed are produced within the farmshed, defined as the same farm as the proposed processing facility or on other agricultural properties located in Marin County or Sonoma County.*
- 3. The operator of the processing facility is directly involved in the agricultural production on the property on which the processing facility is located and other properties located in the farmshed which provide agricultural products to the processing facility;*
- 4. Sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the processing facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.*

Agricultural Retail Sales Facility/Farm Stand:

- 5. The building(s) or structure(s) or outdoor areas used for retail sales do not exceed an aggregate floor area of 500 square feet;*
- 6. Agricultural products to be sold are produced within the farmshed, defined as the same farm as the proposed sales facility, or on other agricultural properties located in Marin County or Sonoma County;*

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7. The operator of the sales facility is directly involved in the agricultural production on the property on which the sales facility is located, and other properties located in the farmshed which provide agricultural products to the retail sales facility;

...

4. Environmental Hazard Types

Public comments have asserted that the inclusion of the term “storms” as a defined type of environmental hazard is ambiguous and would mean that all development throughout the coastal zone would be classified as hazardous because it would inevitably be subject to a “storm”. While the term “storm” is used in LUP Policy C-EH-2, the intent is to classify areas subject to the effects of those storms, including related to high seas, ocean waves, tidal scour, flooding, and sea-level rise, to be classified as hazardous. Therefore, since all of these other parameters are already accounted for under defined hazards types, “storm” does not need to be included. Staff recommends that the staff report dated prepared April 2, 2015 be modified as follows:

Add the following text in the third paragraph after the words “...The screening shall include a review of reports, resource maps, aerial photographs, site inspection, and the County’s hazards maps, all using the best available science...” and before “With respect to sea-level rise ...” on Page 61 of the staff report as follows:

In terms of the types of defined environmental hazards, while the term “storm” is used in LUP Policy C-EH-2, the intent is to classify areas subject to the effects of those storms, including related to high seas, ocean waves, tidal scour, flooding, and sea-level rise, to be classified as hazardous. Therefore, since all of these other parameters are already accounted for under defined hazards types, “storm” does not need to be included and is thus deleted as a defined hazard type.

Amend IP Section 22.64.060(A)(1)(a) in Exhibit 1 as follows:

...Geological or other hazards are defined to include Alquist-Priolo earthquake hazards zones; areas subject to tsunami runup, landslides, liquefaction, episodic and long-term shoreline retreat (including beach or bluff erosion), high seas, ocean waves, ~~storms~~, tidal scour, flooding; steep slopes averaging greater than 35 percent; unstable slopes regardless of steepness; and flood hazard areas, including those areas potentially inundated by future sea level rise. ...

5. Environmental Hazards Report and Coastal Hazards Analysis

Public comments have suggested that the IP as modified should more clearly define the types of development that requires preparation of an Environmental Hazards Report and a Coastal Hazards Analysis. In particular, comments suggest that the definition of “shoreline development” should be more clearly articulated, including a more precise explanation of what is meant by “near the shoreline”. IP Section 22.64.060(A)(1)(b) requires the preparation of an Environmental Hazards Report and a Coastal Hazards Analysis for development that is near the shoreline, defined as “at or near the ocean-sand interface and/or at very low lying elevations in areas near the shoreline”, which is the precise language used in LUP Policy C-EH-5(C). As described on page 62 of the staff report, IP Chapter 22.130 defines “shoreline” to be “the intersection of the

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ocean or sea with land”, and defines “sea” to be “the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean....”. Therefore, the intent of the policy is to require the preparation of such site-specific hazards reports for all low-lying areas along the shoreline that may be subject to inundation (from storms surges, high tides, sea-level rise, etc.) in order to understand the particular hazards associated with the site, and recommend siting and design measures to ensure that the development can be built without shoreline protective devices. However, staff concurs that the definition could be clearer in order to better articulate this concept. Staff recommends that the staff report dated prepared April 2, 2015 be modified as follows:

Modify the following text in the last paragraph on Page 61 of the staff report, after the sentence “However, any other document that meets the above definition may be used for planning purposes in Marin’s coastal zone”, as follows:

Where the initial site assessment screening indicates that the proposed development is ~~within~~ ~~a~~ “Blufftop Development” or “Shoreline Development” ~~per~~ ~~as those terms are defined in IP Sections 22.64.060(A)(2)(b) and (c), respectively~~, or within 100 feet of an area subject to geologic or other hazards (100 feet is the standard used for biological assessments), then the project is required to prepare an Environmental Hazards Report.

...

While the Environmental Hazards Report applies to development subject to the broad range of LUP-identified hazards (e.g. earthquake zones, steep slopes), for development located on a blufftop or near the shoreline, a Coastal Hazards Analysis is required as well, which is consistent with that which is required in Land Use Plan Policy C-EH-5. The areas where such analysis would be required are defined in Land Use Plan Policy C-EH-5: on blufftops, and at or near the ocean-sand interface and/or at very low-lying elevations along the shoreline. Thus, per the LUP and IP’s definitions, As modified, the IP defines “Blufftop Development” as development located 1) on a blufftop; or 2) on a site located in stability zone 2, 3, or 4 as indicated on the Slope Stability of the Bolinas Peninsula Study Area map which accompanies Wagner’s 1977 report, “Geology for Planning, Western Marin County”; and defines “Shoreline Development” as development located at or near the ocean-sand interface, and/or at very low-lying elevations along the intersection of the ocean or sea with land, that may be inundated by environmental hazards in the 100 year evaluation timeframe ~~the analysis would be required of any development proposed to be located on a blufftop, or located at low-lying areas adjacent to and/or near the shoreline.~~

Amend IP Section 22.64.060(A)(1)(b) in Exhibit 1 as follows:

b. Environmental Hazards Report. Where the initial site assessment reveals that the proposed development is ~~located on a blufftop~~ “Blufftop Development” (as defined in subsection (2)(b), below), near the shoreline (i.e., at or near the ocean-sand interface and/or at very low-lying elevations in areas near the shoreline) “Shoreline Development” (as defined in subsection (2)(c), below), or within 100 feet of an area potentially subject to geologic or

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other hazards over the 100 year assessment time frame, the project shall include an Environmental Hazards Report prepared by a qualified registered civil or structural engineer or licensed geologist or engineering geologist.

...

All development located within hazardous areas, including all “Blufftop Development” and “Shoreline Development” ~~development located on bluffs and near the shoreline~~, shall also comply with the requirements of Section 22.64.060.B.8. In addition to the Environmental Hazards Report requirement of this subsection A(1), “Blufftop Development” and “Shoreline Development” ~~development on bluffs or near the shoreline~~ must also meet the requirements of subsections A(2) and A(3), below, including requiring supplementary analyses within the Environmental Hazards Report. (Land Use Plan Policy C-EH-2)

Amend IP Section 22.64.060(A)(2)(c) in Exhibit 1 as follows:

c. Shoreline Development. In addition to the requirements for the Environmental Hazards Report identified in subsection A(1) above, Coastal Permit applications for shoreline development (defined as development located at or near the ocean-sand interface, and/or at very low-lying elevations along the intersection of the ocean or sea with land, that may be inundated by environmental hazards in the 100 year evaluation timeframe), including new development on vacant/undeveloped lots...

6. Modify IP Section 22.68.040(B)

Modify IP Section 22.68.040(B) on Page 156 of Exhibit 1 of the Staff Report as follows:

...In addition, ~~t~~The Director shall maintain, post on the Agency’s website at least weekly, and regularly transmit to the Coastal Commission a list and summary of development projects determined to be categorically excluded...

7. Planted Hedges and Vegetation

IP Section 22.64.045(2)(C), as modified, requires planted hedges and vegetated screens to be subject to the LCP’s height limits, setback requirements, and public view protection standards. In discussion with Marin County staff, while they are amenable to the concept of proactively specifying standards for such vegetation as a tool to ensure that significant public views are protected, they would like more time to delve into the nuances of such a policy. As such, they have recommended deleting this explicit IP section for now, and hope to address the issue more thoroughly via a future LCP amendment. Because LUP Policy C-DES-2, as certified by the Commission, requires landscaping to “not interfere with public views to and along the coast”, staff believes that the LCP includes appropriate controls in the interim to address any potential issues in this regard, and concurs with County staff’s suggestion to delete the IP section. Staff therefore recommends the following change to the IP:

Amend IP Section 22.64.045 in Exhibit 1 as follows:

2. Fencing and Similar Structure Standards

In addition to other applicable LCP provisions, the following standards shall apply to the installation of all fences, walls, trellises, ~~planted hedges and vegetated screens~~, and similar structures:

...

~~C. **Planted Hedges and Vegetated Screens.** Planted hedges and vegetated screens shall be subject to the same height limitations and setback requirements specified above, and shall only be allowed so long as such hedges and screens protect significant public views, including views both to and along the ocean and scenic coastal areas as seen from public viewing areas.~~

...

3. Height Limits and Exceptions.

In addition to other applicable LCP provisions, all structures shall meet the following standards relating to height, except for fences, walls, trellises, ~~planted hedges and vegetated screens~~, and similar structures,...

...

4. Setback Requirements and Exceptions.

...

D. **Exceptions from setback requirements.** The minimum setback requirements of this Development Code shall apply to all development except the following.

1. Fences, walls, trellises, ~~planted hedges and vegetated screens~~, and similar structures that comply with the height limits specified in Fencing and Similar Structure Standards;...

8. Public Hearing Waiver for Minor Development

The County requests that the public hearing waiver provision specified in IP Section 22.70.030(B)(6) apply to both appealable and non-appealable development. Staff concurs that doing so is consistent with Coastal Act Section 30624.9, and recommends the following suggested modification:

Amend IP Section 22.70.030(B)(6) in Exhibit 1 as follows:

65. Public hearing waiver for minor development, including development appealable to the Commission. A public hearing that would otherwise be required for ~~the below~~

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identified minor development, including development appealable to the Commission under 22.70.080(B) shall be waived if both the following occur:

9. Repair and Maintenance

The County requests that proposed IP Chapter 22.68.050(B)'s CDP exemption language track Coastal Act Section 30610(d) by removing the term "or change to". Staff concurs with the request and recommends the following modification:

Amend IP Section 22.70.030(B) in Exhibit 1 as follows:

B. Repair and maintenance. Repair and maintenance activities that do not result in the addition ~~or change to~~, or enlargement or expansion of, the object of repair or maintenance.

CALIFORNIA COASTAL COMMISSION

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Th7a

Prepared April 2, 2015 (for April 16, 2015 hearing)

To: Coastal Commissioners and Interested Persons

From: Dan Carl, North Central Coast District Director
Nancy Cave, North Central Coast District Manager
Kevin Kahn, Central Coast District Supervisor
Shannon Fiala, Coastal Planner

Subject: **Marin County Local Coastal Program Amendment Number LCP-2-MAR-13-0224-1 Part B (Marin Implementation Plan Update).**

SUMMARY OF STAFF RECOMMENDATION

Procedural Note

Marin County's current Local Coastal Program (LCP) was originally certified, with the County assuming coastal development permit (CDP) authority, in May of 1982. In 2008, the County embarked on a comprehensive LCP update, and following nearly five years of public involvement, hearings, and extensive deliberation by both the Marin County Planning Commission and Board of Supervisors, the County submitted that update for Coastal Commission consideration. In May of last year, the Commission conditionally approved the Land Use Plan (LUP) portion of the update, and now is evaluating the Implementation Plan (IP) portion of the update. The standard of review for the IP update is the LUP that was conditionally approved by the Commission last year.

At the onset, Commission staff notes that the County has offered an open, inclusive, and collaborative dialogue with staff, including early consultation on issues to be addressed in the update. The County's consultation and hearing process has significantly informed Commission staff's recommendation, especially given that the County's record contains extensive public comments about the County's proposed revisions. The Commission staff recommendation has also benefitted from public comment received by the Commission from interested stakeholders and community groups over recent years and months on issues raised by the County's submittal. Commission staff has worked extensively and inclusively with County staff both prior to and subsequent to submittal of the LCP amendment package. Commission staff has also worked closely with members of the public, including meeting with stakeholder groups to understand their particular concerns, soliciting public comments on draft LCP amendment language, and presenting proposed modified LCP language at local community forums. The result of this public outreach is an IP amendment, as suggested to be modified, that attempts to address the issues

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raised by a broad swath of Marin County constituents, including agricultural interests, environmental groups, property owners, and Marin County Community Development Agency staff, among others, in a manner that is consistent with, and is adequate to carry out the LUP as that document was conditionally approved by the Coastal Commission last year.

As the Commission evaluates the proposed IP update, it is important to note that because the proposed IP submittal (some 205 pages) implements the LUP as it was originally submitted to the Commission and before the Commission conditionally approved the LUP with changes, the IP, as submitted, does not fully reflect the May 2014 conditionally approved LUP. In addition, the original County IP submittal contained many County Municipal Code sections as cross-references, but the County did not include these cross-referenced Code sections as proposed changes to the IP (an additional 477 pages in a “soft submittal”, thus bringing the total County IP update submittal to some 682 pages of materials). Instead, the County submitted these additional sections as sections to potentially be added to the LCP through Commission suggested modifications. As a result, though shown as modifications in the Commission staff’s recommendation, many of the changes staff recommends actually come from the language of this County soft submittal. Staff estimates that approximately one-third of the suggested modifications reflect the need to conform IP language to Commission-approved LUP language, and that about one-third come from the County’s soft submittal, and thus that only one-third reflects additional changes that staff believes are necessary for the IP to adequately carry out the LUP as approved by the Commission last year. The staff recommendation should be understood in this context and, all told, the IP that staff recommends that the Commission approve would constitute some 254 pages in total.

Marin County has until November 15, 2015 to accept the Commission-approved LUP, and should the Commission approve the IP at this hearing, the County would have until October 16, 2015 to accept the Commission-approved IP. The County has indicated that it intends to take the entire Commission-approved LCP, both the LUP and the IP, back to the Board of Supervisors shortly after the Commission’s IP hearing. If the Board accepts all of the Commission’s approved changes, then the updated LCP would be certified when that Board action is reported to the Commission. If the Board does not accept all of the changes, then the existing certified LCP would remain in place, and the County could choose to rely on the existing certified LCP or could choose to resubmit a modified LCP update proposal for future Commission consideration.

LCP Update Background

Marin County contains approximately 106 miles of coastline stretching from the Sonoma County border in the north to Point Bonita near the Golden Gate Bridge in the south. The coastal zone totals roughly 130 square miles (82,168 acres) of the County’s 520 square miles of total land area. Of this total, approximately 53 square miles (33,913 acres) are owned and managed by the federal government, contained mostly within either Point Reyes National Seashore or the Golden Gate National Recreation Area. Approximately 75 square miles (48,255 acres) comprise the County’s LCP jurisdiction. Marin’s coastal zone is incredibly rich in coastal resources, including a thriving agricultural economy dominated by existing family farming operations; a rich tapestry of sensitive biological resources including dunes, woodlands, open meadows, bluffs, and riparian areas; extensive visitor-serving uses that provide both vital recreational (e.g., trails, parks, beaches) and commercial (e.g., walkable commercial districts and visitor accommodations) opportunities for the nearly eight million residents of the greater San Francisco Bay Area and

visitors from around the world; and broad swaths of land subject to coastal hazards, including development protected by structural armoring, low-lying areas subject to flooding, and bluffs susceptible to erosion, all exacerbated by the effects of sea-level rise.

The following contains an overview of the County's IP submittal, including highlighting particularly important coastal resource protection issues, and the suggested modifications required to achieve LUP consistency.

Agriculture

Agriculture is one of the primary uses of land within the Marin coastal zone. The LCP implements its agricultural protection standards primarily through the Coastal Agricultural Production Zone (C-APZ) zoning district. This single zoning district comprises nearly two-thirds of the non-federally owned coastal zone (30,781 acres out of a total of 48,255 acres), and contains the vast majority of Marin's existing agricultural lands, much of which is used primarily for livestock grazing rather than row crops because Marin's coastal zone contains little prime agricultural land suitable for row crop farming, and has limitations on water supply availability.

The Commission-approved LUP identifies the C-APZ zoning district as the LCP's primary agricultural zone, specifies the allowable uses within the zone and the permitting status for those uses, and lists a hierarchy of required development standards. The Commission focused the approved LUP policies on the protection and enhancement of the family farm, and thus the family farm became the metric by which the Coastal Act's agricultural protection standards would be based. As such, the LUP's agricultural protection policies were the subject of numerous modifications made by the Commission, including in terms of defining the types of principally permitted agricultural uses and the required development standards. The IP as proposed by the County does not contain all of the updated LUP's development parameters and must be denied as submitted and only approved with suggested modifications, as summarized below.

Many suggested IP modifications only rearrange in which IP section the standards are listed for clarity purposes, make a change required for consistency with the corresponding LUP policy, or further refine the standards that certain agricultural development must meet in order to be principally permitted (for which CDP approval would not be appealable to the Coastal Commission). However, some LUP policies, as acted upon by the Commission, require further clarification in order to be properly implemented, including those that address farmhouses and intergenerational homes. The LUP allows one farmhouse or a combination of one farmhouse and up to two intergenerational homes per farmer, regardless of how many parcels the farmer owns. The concept is centered around the family farming operation, in that a farmer is allowed one farmhouse on their farm. A farm may consist of one legal lot, or it may consist of multiple legal lots that together constitute one unified farming operation. Regardless of how many lots constitute the farm, the farmer is allowed one farmhouse. However, in order to allow for others to live on that farm, including family members, the farmer is also allowed to build up to two intergenerational housing units.

Thus, the LUP sets up a structure by which protection of the family farm is the primary mandate, and a farmer is allowed up to three dwellings (a farmhouse and up to two intergenerational

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homes) on that farm. The IP, as modified, defines the process by which the farmhouse/intergenerational home allowance is implemented, including the application and permitting process. First, the applicant must identify the farm. The IP defines “farm” to be all parcels owned by the applicant. However, if non-contiguous parcels are determined to be a wholly independent farming operation, based on specified criteria, they may constitute an independent farm. Thus, the applicant may be allowed a farmhouse/two intergenerational homes combination on each farm if the applicant demonstrates that non-contiguous parcels are independent farming operations. This construct is consistent with, and helps implement, the County’s and Commission’s desires to protect and enhance Marin’s family farming operations.

With respect to principally permitted use (PPU) status, only the farmhouse and the first intergenerational home could be considered a PPU, and any second intergenerational home (capped per the LUP as a total of 27 such homes in the County’s coastal zone overall) would not be principally permitted. In addition, farmhouses and intergenerational homes would need to certain criteria to be a PPU (including that they are clustered in the developed portion of the farm, not involve development of new roads, etc.). In this way, the IP implements the approved LUP by ensuring that these types of agricultural dwelling units must meet the same rigorous criteria established in the LUP through an implementation program designed around such criteria in the IP.

In terms of questions regarding buildout potential and to what effect the approved LUP and this IP affect such potential, it is clear to staff that the changes proposed and as suggested to be modified appropriately contain potential buildout at levels lower than allowed under the existing LCP. These changes strike a balance between providing for the expressed needs of family farmers (e.g., in terms of farmhouses and intergenerational homes) and ensuring that such development is clearly in support of such farming operations overall. By providing for such development, including circumscribing it in such a way as to protect against other sorts of potential coastal resource impacts, the IP provides a cautious approach to allowing such development. Staff’s analysis indicates that, at potential buildout, a maximum of up to 48 additional farmhouses and up to 27 intergenerational homes may be possible in the Marin County coastal zone. As detailed in the LUP findings, there is little expectation of a development rush, and this is a maximum, and the expected development of such units is expected to likely be lower, particularly over the short term.

Finally, with respect to permitting associated with agricultural activities, the IP defines development to include changes in use, changes in intensity of use, and grading, including into an area that has not previously been farmed. Thus, ongoing agricultural production activities (i.e., activities such as grading and other routine agricultural practices on land where such activities have been routinely performed) do not require a CDP. As modified, ongoing agricultural activities is defined as existing legally established agricultural production activities, including all ongoing grading and routine agricultural cultivation practices (e.g., plowing, tilling, planting, harvesting, seeding, etc.), which have not been expanded into never before used areas and have not been discontinued for more than the previous 10 years. Therefore, conversion of grazing to crop production (except on land used for ongoing rotational grazing and crop production) on land not used for crop production purposes within the previous 10 years would constitute a change in the intensity of use of land or water, along with any associated grading for

such production activity, would constitute new development requiring a CDP. Staff expects that most existing farming operations and activities in the County's coastal zone will fall into the category of ongoing agricultural production activities.

However, even if an agricultural activity requires a CDP, the IP offers many tools to streamline the permitting process and make it less onerous for the agricultural community. For example, the Commission issued the County Categorical Exclusion Orders E-81-2 and E-81-6, which exclude from coastal permit requirements, subject to specified criteria, agriculturally-related development, including production activities, barns, and other necessary buildings.

For those projects that cannot be excluded, the IP offers many other tools to streamline the permitting process, including the use of the de minimis waiver CDP process for non-appealable development, and a public hearing waiver process for certain minor appealable development. Thus, the IP as modified sets up a structure in which a CDP is not required for ongoing agricultural production activities, many new agricultural activities may be excluded from requiring a CDP, and, even if a CDP is required, it can be waived or deemed minor. As such, the IP provides numerous tools to expedite permitting requirements for the County's agricultural community while meeting coastal resource protection goals and enhancing agricultural operations, all consistent with the Coastal Act's objectives.

Biological Resources

The conditionally approved LUP includes a detailed set of policies that define ESHA, specify the uses allowed within it, specify the required buffers from ESHA and the allowed uses within those buffers, identifies biological assessment requirements, and also identifies the process for obtaining a buffer reduction. Specifically, the LUP protects the County's significant sensitive habitats primarily through updated and refined designation and protection of ESHA, including limiting allowed uses consistent with the Coastal Act, and requiring ESHA buffers (a minimum of 100 feet for streams and wetlands and 50 feet for other types of ESHA). Importantly, the approved LUP allows buffers to be reduced (to an absolute minimum of 50 feet for wetlands and streams and 25 feet for other types of ESHA), provided the reduced buffer meets stringent conditions, including that it adequately protects the habitat, and that the project creates a net environmental improvement over existing conditions.

In general, the proposed IP implements the conditionally approved LUP's biological resource protection standards and offers additional details on the CDP submittal requirements necessary to ensure such sensitive habitat protection. However, certain modifications are necessary for the IP to be fully LUP consistent. These changes are mostly minor in nature, and are made in order to ensure that the IP conforms to the LUP as approved. Several, however, are more substantive. For example, the proposed IP standard indicates that development must be sited and designed to avoid impacts to ESHA, but then goes on to state that if there is no feasible alternative that can avoid significant impacts to ESHA, then the alternative that results in the least impacts to ESHA shall be selected. As proposed, this standard could be interpreted to mean that any development could be allowed within ESHA so long as the County determines that it is the least environmentally damaging with respect to ESHA impacts. However, mitigating for ESHA habitat loss/adverse impacts is only allowed as a mitigation strategy for those uses allowed in ESHA per the LUP when there are no feasible alternatives, including the no project alternative,

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which would avoid ESHA impacts. Thus, the proposed IP modification is LUP consistent on this point.

Similarly, an additional modification further clarifies standards that projects proposing buffer reductions must meet. The buffer reduction concept has raised some concern for public commenters, and staff concurs that such reductions must be allowed only where exacting criteria and requirements are met, including so that the habitat is appropriately protected as directed by the LUP. As such, modifications are added to state that buffer reductions must be supported by clear and convincing findings of the need for the reduction, that buffers may only be reduced by the absolute minimum necessary, and that buffer reductions must prevent impacts that degrade the ESHA and be compatible with the continuance of the ESHA. Other modifications are minor in nature and simply add/delete terms for clarity purposes or fix typographical errors. As modified, the IP includes a clear set of policies and standards for protecting biological resources as directed by the approved LUP.

Coastal Hazards

The conditionally approved LUP requires new development to be safe from geologic or other hazards for a minimum of 100 years without the need for shoreline protective devices. Development within blufftop and shoreline areas must prepare a coastal hazards analysis as part of the CDP process that ensures its stability and structural integrity, and ensures that development is appropriately setback from the shoreline/bluff edge, for a minimum of 100 years without factoring in any existing or proposed shoreline protective devices. The LUP details the criteria for allowing shoreline protective devices, including what uses are allowed structural protection, mitigation requirements, and design standards. Finally, the conditionally approved LUP includes a suite of policies addressing existing development currently located in hazardous areas. For example, such development may be repaired and maintained, but when 50% or more of the major structural components are altered, the structure is considered redeveloped and the entire structure must be found consistent with all applicable LCP policies.

Thus, the conditionally certified LUP includes an extensive, detailed, and encompassing policy framework that mirrors many of the suggested policy mechanisms and best practices outlined in the Commission's Draft Sea-Level Rise Policy Guidance.

The proposed IP as suggested to be modified appropriately implements the LUP's coastal hazards policies. The IP requires adherence to the LUP's policies, which themselves are very detailed in terms of defining the types of coastal hazards, their identification, and required parameters that development must meet. The IP also clarifies what types of proposed development would be required to prepare hazards analyses, as well as definitions of certain terms. Modifications are thus added to clearly articulate the process for such hazards evaluation. As modified, an initial screening assessment would be undergone for each CDP application to determine whether the site proposed for development may be subject to hazards. The assessment would include a review of reports, resource maps, aerial photographs, site inspection, and the County's hazards maps, all using the best available science.

Where the initial site assessment screening indicates that the proposed development is located in an area that may be subject to geologic or other hazards, then the project is required to prepare an Environmental Hazards Report. The Report must be prepared by a qualified professional, and is

intended to describe the extent of potential hazards on the site over the minimum 100 year timeframe, and to ensure that the development meets applicable hazards criteria. Development within blufftop and shoreline areas must also prepare a Coastal Hazards Analysis, which, among other requirements, lists the required CDP conditions necessary to ensure that the structure is relocated and/or removed (and the site restored) whenever the development is deemed hazardous and unsafe for human occupancy. Such relocation requirements have been commonly used by the Commission in recent actions¹ to ensure that development appropriately and proactively addresses “end of life” concerns.

Finally, a definition of “Coastal Redevelopment” is proposed that builds upon the substantial detail in this regard in the approved LUP, and articulates what elements are/are not considered to be “major structural components”, and the alterations to them that would trigger the coastal redevelopment policy (which requires non-conforming structures to be brought into conformance when such threshold is crossed). Furthermore, in order to address concerns about differing standards between the LCP and those that are mandated per Federal Emergency Management Agency (FEMA) requirements, which calculates “new development” based on a *cost* model, the structure is also considered to be coastal redevelopment when the alteration meets applicable FEMA requirements. Therefore, the coastal redevelopment policy is triggered when the development includes work on the major structural components (e.g., when 50% of the linear length of a wall is removed), or if it meets applicable FEMA thresholds (i.e., based on 50% cost relative to market value).

Thus, as modified, the IP implements corresponding conditionally approved LUP policies, which state the required parameters, metrics, and findings that must be made to ensure new development is safely located.

CDP Procedures

The Coastal Act defines the activities that constitute development, requires a CDP that is consistent with the Coastal Act or the local government’s Commission-certified LCP for the activities that meet the definition of development, and then lists the different types of CDPs. The Coastal Act’s implementing regulations then offer detailed provisions that specify permitting procedures, including required noticing, hearing dates, and appeals procedures.

While the IP as submitted by the County offers a detailed set of CDP procedures, it is not always clear, particularly with respect to the process by which certain notices will be distributed to the public and the Commission, which is a very important step in ensuring that the Commission and interested stakeholders can weigh in on County permit category determinations and CDP decisions. Accordingly, recommended suggested modifications clarify and enhance noticing procedures as well as the ability of interested persons to track and if necessary challenge or appeal County decisions. For example, similar to what has been approved in other recent LCPs,²

¹ Including the Monterey Bay Shores Resort in San City in CDP Number A-3-SNC-98-114, the Winget residence in Humboldt County in CDP Number 1-12-023, and, in Marin County, the Marshall Tavern in Marshall in CDP Number 2-06-017. These kind of provisions are also similar to recent certified LCP language in this regard (e.g., in the recently certified Seaside LCP).

² See, for example, Santa Cruz County LCP Amendment Number LCP-3-SCO-13-0228-1 Part A (Regulations Update), approved by the Commission in February 2014.

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a modification requires that the County provide notice of all categorical exclusion determinations within five working days to the applicant, the Commission, and any known interested parties. For exemption determinations, the modification requires the County to maintain a list of all exemption determinations, which shall be updated at least weekly and provided for public review at the Community Development Agency's front counter and webpage, transmitted weekly to the Commission, and made available upon request otherwise. The list shall identify the items' posting date, which shall be the date from which challenges are allowed within the next 30 days. For both exemptions and exclusions, the notice shall include a project description, reasons supporting the determination, and the date of the Director's determination. Additionally, all permit category determinations are subject to challenge to the Commission, and all County CDP decisions are appealable locally, triggering a required public hearing, and some may also be appealable to the Commission after all local appeals have been exhausted.

Other modifications to the CDP procedures chapters address emergency permits, temporary events, definition of the principally permitted use (including clarifying that any use that requires the granting of a variance is not a principally permitted use), land divisions, nonconforming structures, and potential takings analysis.

As modified, the IP identifies the process by which it will carry out its LCP, including by specifying the different types of CDPs and their corresponding hearing and noticing requirements, and allows for a robust program of challenge and appeal, all with the goal of maximizing public participation consistent with the LUP and Coastal Act.

Other

In addition to the agriculture, biological resources, environmental hazards, and coastal development permit procedures provisions summarized above, the proposed IP also implements updated LUP policies related to the provision of adequate public services, visual resource protection, public recreation, public access, and other coastal resource concerns. In general, the standards within these IP chapters cross-reference the corresponding LUP policy, and are therefore consistent with the LUP. In these IP chapters, most of the staff's suggested modifications clarify terms and requirements. Thus, if modified as suggested in this report, the IP is consistent with and adequate to carry out the policies of the conditionally approved LUP, as it was approved with suggested modifications by the Commission at its May 15, 2014 hearing.

In conclusion, Marin County has prepared and submitted a significant update to the IP, one that has been evaluated at the local level through dozens of public forums over the past five years. Commission staff has worked closely with County staff over the course of this time, including providing directive comments and input at critical junctures, and has continued to work closely with both the County and with the public after the proposed IP was submitted to the Commission for consideration. The end result of this collaboration is an IP as suggested to be modified that should serve to ably protect the significant coastal resources of the Marin County coastal zone for years to come, as well as maximize the public's participation in this coastal resource protection process. If modified as suggested in this report, staff believes that the IP is consistent with and adequate to carry out the policies of the conditionally approved LUP.

Staff recommends that the Commission hold a public hearing and approve the IP subject to

modifications. This will require the Commission to **deny** the IP as submitted, and then **approve** the IP if modified to incorporate the suggested modifications. The motions to accomplish this are found on page 10, below.

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ATTACHMENTS

Attachment A: Summary of Marin County Zoning Districts

Attachment B: Summary of Marin County Hearing Process

EXHIBITS

Exhibit 1: Proposed IP Text with Coastal Commission Suggested Modifications

Exhibit 2: Existing IP Text

Exhibit 3: Coastal Commission-Approved Land Use Plan

Exhibit 4: Location Maps

Exhibit 5: Correspondence

Exhibit 6: Coastal Agricultural Production Zone (C-APZ) Buildout Analysis

ADDITIONAL INFORMATION

For further information on Marin County's proposed LCP update or this report, please contact Kevin Kahn, Central Coast District Supervisor, at (831) 427-4863. Correspondence should be sent to the North Central Coast District Office in San Francisco at 45 Fremont Street, Suite 2000, San Francisco, CA 94105-2219.

I. MOTION AND RESOLUTION

Staff recommends that the Commission approve the IP amendment if modified. The Commission needs to take two separate actions to effect this recommendation.

1. Denial of the Implementation Plan as Submitted

Staff recommends a **YES** vote on the following motion. Passage of this motion will result in denial of the IP amendment as submitted and adoption of the following resolution and findings. The motion passes only upon an affirmative vote of a majority of the Commissioners present.

Motion. *I move that the Commission reject Implementation Plan Amendment LCP-2-MAR-13-0224-1 Part B as submitted by Marin County, and I recommend a yes vote.*

Resolution to Deny as Submitted. *The Commission hereby denies certification of the Implementation Plan as submitted by Marin County and adopts the findings set forth below on grounds that the Implementation Plan as submitted does not conform with, and is inadequate to carry out, the provisions of the Land Use Plan, as approved with suggested modifications on May 15, 2014. Certification of the Implementation Plan as submitted would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan as submitted.*

2. Approval of the Implementation Plan with Suggested Modifications

Staff recommends a **YES** vote on the following motion. Passage of the motion will result in the certification of the IP amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the Commissioners present.

Motion. *I move that the Commission certify Implementation Plan Amendment LCP-2-MAR-13-0224-1 Part B for Marin County if it is modified as suggested in this staff report, and I recommend a yes vote.*

Resolution to Approve if Modified. *The Commission hereby certifies the Implementation Plan submitted by the County of Marin, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan with the suggested modifications conforms with, and is adequate to carry out, the provisions of the Land Use Plan, as approved with suggested modifications on May 15, 2014. Certification of the Implementation Plan if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Plan if modified as suggested.*

II. SUGGESTED MODIFICATIONS

The Commission finds and suggests that the following changes (i.e., “suggested modifications”) to the submitted Marin County Implementation Plan (IP) are necessary to ensure that the IP is consistent with and adequate to carry out the Commission-approved Land Use Plan (LUP). If the County accepts the prior suggested modifications on the LUP, and accepts these suggested modifications on the IP within six months of Commission action (i.e., by October 16, 2015), by formal resolution of the County Board of Supervisors, the County’s LUP and IP will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

1. **Modify IP.** Amend the standards of the proposed Implementation Plan as shown in Exhibit 1 (changes shown in ~~strike-out~~ are to be deleted, and changes shown in underline are to be added).
2. **Categorical Exclusion Orders.** Prior to any final Board of Supervisors action on the Commission-approved IP, the County shall either:
 - a. **Add Historic Standards.** Submit for Executive Director review and approval two copies of each set of zoning ordinances and any other standards in effect at the time that the Categorical Exclusion Orders were adopted for each category of development requiring consistency/compliance with such standards in effect at that time, in a form and content that allows straightforward assessment of Categorical Exclusion Order consistency, and upon Executive Director approval add such standards to the IP as part of Appendix 7; or
 - b. **Modify Orders.** Submit for Executive Director review and approval two copies of Commission-adopted Categorical Exclusion Order amendments that allow for updated LCP standards to be used as a basis for Categorical Exclusion Order consistency, and upon Executive Director approval add such amended Categorical Exclusion Orders to the IP as Appendix 7.

III. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

Existing LCP

The County's LCP was originally certified in May 1982 and currently consists of three parts: two Land Use Plans (LUPs) (one for Unit 1 and another for Unit 2), and one Implementation Plan (IP). The LUP for Unit 1 applies to the southern portion of the County's coastal zone, including the communities of Bolinas, Stinson Beach, and Muir Beach, while the LUP for Unit 2 applies to the County's northern coastal zone from Olema to the Sonoma County border. The certified IP consists of implementing ordinances codified in Chapters 22.56 and 22.57 of the Marin County Municipal Code. Chapter 22.56 describes the process for issuing coastal development permits (CDPs), including defining development (which mirrors the definition in Coastal Act Section 30106) and stating that a CDP is required for development within the coastal zone, lists the types of development that are exempt from CDP requirements (which generally mirror those listed in Coastal Act Section 30610 and Sections 13250-13253 of the Commission's regulations), and lists the hearing and noticing requirements applicable to the types of CDPs (including whether or not a CDP is appealable to the Coastal Commission, the project requires another discretionary permit, etc.). Chapter 22.56.130(A-Q) also lists the required coastal resource protection standards that all development must meet. These standards mirror the policies that are included in the LUP, including requirements for adequacy of public services, buffers for streams and wetlands, grading standards, and provision of public coastal access. IP Chapter 22.57 lists the allowable uses and their corresponding permitting status for each of the coastal zone's fourteen zoning districts. The chapter includes two types of uses: principally permitted uses (PPUs) and conditional uses. PPUs are the uses specifically identified to be the primary use for the listed zoning district. Conditional uses are additional uses that may be allowed in the listed district. County CDP approvals where multiple types of PPUs are identified³, and in all cases of conditional uses, are appealable to the Coastal Commission per Coastal Act Section 30603.

LCP Update

In 2008, the County embarked on a comprehensive LCP update, and following nearly five years of public involvement, hearings, and extensive deliberation by both the Marin County Planning Commission and Board of Supervisors, the County submitted that update for Coastal Commission consideration. In May of 2014, the Commission conditionally approved the LUP portion of the update. This report is focused on the IP portion of the update. The standard of review for the IP update is the LUP that was conditionally approved by the Commission last year.

The proposed IP update would replace the existing IP in its entirety with new provisions designed to implement corresponding policies of the updated LUP. It is important to note that the County approved and submitted the LUP and IP components of the LCP update to the

³ The Coastal Act and its implementing regulations require that a single PPU be identified per zoning district for purposes of appeal to the Commission. If multiple PPUs are identified, they can only meet this test if they are all of the same type of use (e.g., a variety of residential uses in a residential zoning district). If instead the multiple PPUs are different types of uses (e.g., both residential and commercial uses are identified in a residential zoning district), or if a single PPU has not been identified otherwise, then none of the uses have been identified as the single PPU for purposes of appeal, and all are appealable.

Commission together at the same time as two parts of one LCP amendment submittal package. As a result, the proposed IP does not reflect the Commission-approved changes to the LUP, and changes are necessary in that regard in order to simply conform the IP to the Commission-approved LUP. In addition, the original County IP submittal included many County Code sections as cross-references, but did not include them as proposed changes to the IP. Instead, the County submitted these additional sections as sections to potentially be added to the LCP through Commission suggested modifications. As a result, changes to incorporate the cross-referenced sections are also necessary. In addition, additional refinements to adequately implement the approved LUP are also necessary. Each of these types of changes are discussed in the findings that follow.

Marin County has until November 15, 2015 to accept the Commission-approved LUP, and the County would have until October 16, 2015 to accept the Commission-approved IP. The County has indicated that it intends to take the entire Commission-approved LCP, both the LUP and the IP, back to the Board of Supervisors shortly after the Commission's IP hearing. If the Board accepts all of the Commission's approved changes, then the updated LCP would be certified when that Board action is reported to the Commission. If the Board does not accept all of the changes, then the existing certified LCP would remain in place, and the County could choose to rely on the existing certified LCP or could choose to resubmit a modified LCP update proposal for Commission consideration.

Proposed IP Update

The proposed IP includes zoning district maps and nine chapters:

- Chapter 22.32 (Standards for Specific Land Uses)
- Chapter 22.60 (Purpose and Applicability of Coastal Zone Regulations)
- Chapter 22.62 (Coastal Zoning Districts and Allowable Land Uses)
- Chapter 22.64 (Coastal Zone Development and Resource Management Standards)
- Chapter 22.65 (Coastal Zone Planned District Development Standards)
- Chapter 22.66 (Coastal Zone Community Standards)
- Chapter 22.68 (Coastal Permit Requirements)
- Chapter 22.70 (Coastal Permit Administration)
- Chapter 22.130 (Definitions)

The proposed IP is structured in such a way as to list the allowable land uses for each of the coastal zone's fourteen zoning districts (specified in Chapter 22.62, with the uses defined in Chapter 22.130), with a progression of required resource protection and development standards applicable to all allowable development coastal zone-wide (Chapter 22.64), additional standards particular to the coastal zone's nine designated coastal villages (Chapter 22.66), standards applicable to each zoning district (Chapter 22.65), and standards applicable for particular land

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uses (Chapter 22.32). Chapters 22.68 and 22.70 specify what types of activities constitute development requiring a CDP, the different types of CDPs, and the hearing and noticing specifications required for the particular CDP type.

Each of the proposed IP chapters are located in Title 22 (Development Code) of the Marin County Municipal Code, which describes and implements the land use planning and development standards throughout the County. Within Title 22, there are eight “Articles”. Article V, titled “Coastal Zones—Development and Resource Management Standards”, includes proposed IP Chapters 22.60-22.70 and is meant to serve as the primary location for the IP’s requirements and lists the standards that solely apply to development within the coastal zone. Chapter 22.32 lists the standards for particular land uses and applies throughout the County, both coastal and inland, and is located within Article III—Site Planning and General Development Standards. Finally, Chapter 22.130 is located in Article VIII—Development Code Definitions, and again applies to development throughout the County, coastal and inland alike.

Each of the nine chapters is explained in more detail, below.

Chapter 22.32 (Standards for Specific Land Uses)

Chapter 22.32 describes the development standards applicable to 34 individual land uses. This chapter represents an entirely new section when compared to the existing certified IP, which lists general development standards applicable for all uses throughout the coastal zone, but does not include additional use-specific provisions. The 34 listed uses in proposed Chapter 22.32 are either commonly proposed and/or offer their own particular set of impacts/issues, including agricultural intergenerational homes, guest houses, residential second units, and telecommunications facilities.

As stated above, this chapter includes standards that apply to development in both the coastal zone and outside of it. Some uses are denoted with “(Coastal)”, meaning that the standards specified for that particular use apply solely within the coastal zone, while standards without the “(Coastal)” denotation apply to that development type both within and outside of the coastal zone. The standards provide additional details on required development parameters specific to the particular use, specify in which coastal zoning district the use is allowed, and/or identify additional performance standards/permit requirements, including other local permits and authorizations that a particular use/development may need (in addition to a CDP in the coastal zone), such as Design Review approval, Use Permit authorization, or a Second Unit Permit. Many of the development standards repeat and build upon applicable Land Use Plan policies specific to those uses (including, for example, IP Section 22.32.028’s specification that Agricultural Worker Housing is type of development designated as principally permitted within the Coastal Agricultural Production Zone (C-APZ) so long as the housing consists of no more than 36 beds or 12 units (mirroring that which is described in LUP Policy C-AG-2)).

Additionally, Chapter 22.32 includes provisions to ensure implementation of and compliance with corresponding LUP requirements, such as recordation of a restrictive covenant and licensing/reporting requirements from the State Department of Housing and Community Development to ensure that all agricultural worker housing is maintained and operated for its permitted use (including, for example, being occupied by agricultural workers). Other provisions for particular uses in Chapter 22.32 go beyond traditional land use parameters (e.g., height,

density, permitting status) and instead specify required operating standards. These include requirements for Home Occupations that specify an allowance for a maximum of one nonresident employee and prohibit such uses from creating fumes, glare, light, noise, odor, or other such public nuisances.

Chapter 22.60 (Purpose and Applicability of Coastal Zone Regulations)

Chapter 22.60 is the introductory chapter of the LCP's IP, setting forth the County's intention that all development within the coastal zone must be consistent with the Marin County LCP in order to carry out the statutory requirements of the California Coastal Act. Section 22.60.020 also states that while all policies and regulations specified in the Marin County Development Code apply in the coastal zone (including, for example, non-CDP permit requirements and standards for particular land uses (including those specified in Chapter 22.32)), in the event of any perceived conflict between those standards and the ones specifically required of Article V (i.e. Chapters 22.60-22.70), Article V shall control.

Chapter 22.62 (Coastal Zoning Districts and Allowable Land Uses)

Chapter 22.62 divides the coastal zone into fourteen zoning districts, includes the list of allowable land uses and their corresponding permitting status for each of those zoning districts, and cross-references the required development standards applicable for those listed uses. This structure is similar to that of the existing certified IP, which also divides the coastal zone into the same fourteen zoning districts. The proposed Chapter describes the intent of each of the zoning districts, lists their allowable land uses, and then lists the permitting category of those uses. The Chapter divides the allowable land uses into five permit categories: categorically excluded for which no CDP is required (denoted with "E"), principally permitted (noted with "PP"), permitted ("P"), conditional ("U"), and use not allowed ("_").

Section 22.62.040 describes the five uses, where categorically excluded projects ("E") are those that are specified in applicable Coastal Commission-certified Categorical Exclusion orders as not requiring a CDP, development denoted "PP" is only appealable to the Coastal Commission if located within the geographic appeals area or if the project constitutes a major public works project or major energy facility, "P" uses that meet the definition of development require a coastal permit that is appealable to the Coastal Commission, "U" uses are conditional uses requiring both a County Use Permit and, if it meets the definition of development, a CDP which is appealable to the Coastal Commission, and "_" uses are not allowed in the zoning district. The fourteen zoning districts, their intended purpose, and some of their proposed allowed land uses, are set forth in Attachment A.

Chapter 22.62 includes Tables 5-1, 5-2, and 5-3, which list each of the fourteen zoning districts and lists the land uses allowable in each. The tables categorize land uses into eight types, as follows:

- Agriculture, Mariculture: including agricultural accessory activities, agricultural production, agricultural worker housing, farmhouse, and mariculture.
- Manufacturing and Processing Uses: including cottage industries, boat manufacturing and sales, and recycling facilities.

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- Recreation, Education, and Public Assembly Uses: including campgrounds, equestrian facilities, libraries and museums, and schools.
- Residential Uses: including single-family dwellings, home occupations, affordable housing, and residential second units.
- Resource and Open Space Uses: including nature preserves, mineral resource extraction, timber and tree production, and water conservation dams and ponds.
- Retail Trade Uses: including grocery stores, bars and drinking places, restaurants, and farmer's markets.
- Service Uses: including hotels and motels, offices, warehousing, banks and financial services, and construction yards.
- Transportation and Communications Uses: including harbors, marinas, telecommunications facilities, and transit stations and terminals.

The proposed IP does not include any parcel rezonings. However, the IP does propose to revise some of the uses allowed within existing certified zoning districts by adding/deleting certain uses from particular zoning districts, and/or revising the required permitting status of those listed uses (e.g., where a development that was previously classified as a conditional use is now proposed to be principally permitted, and vice versa). Specifically, within the C-APZ zone, which is the LCP's primary agricultural zoning district, the IP proposes newly allowable land uses such as Intergenerational Homes (which is defined as a type of agricultural land use meant to house members of the farm owner's or operator's immediate family), Group Homes (defined as a dwelling unit providing non-medical 24-hour care for persons who are not disabled, and includes drug abuse recovery centers), and Educational Tours (defined as interactive excursions for groups to experience the unique aspects of a property, including agricultural operations). Other uses within the C-APZ have different permitting standards, including Agricultural Processing Uses and Agricultural Product Sales, both of which are classified as conditional uses in the existing certified IP, but are now proposed to be principally permitted uses so long as they meet certain criteria (including sizing requirements).

Within the Coastal Visitor Commercial Residential Zone (C-VCR), which is the IP's primary zoning district along the commercial streets within the coastal zone's nine designated villages, a broad swath of land uses are newly allowable, ranging from Recycling Facilities, Cemeteries, and Seafood Processing and Sales facilities (all proposed as conditional uses) to new principally permitted uses such as Affordable Housing. Other zoning district changes include Public Buildings and Equestrian Facilities as allowable uses within the Coastal Single Family Planned district (C-RSP), Recycling Facilities and Affordable Housing as newly allowable in the Coastal Resort and Commercial Recreation district (C-RCR), and allowing Farmers' Markets and Vehicle Repair and Maintenance facilities in the Coastal Limited Roadside Business district (C-H1).

Chapter 22.64 (Coastal Zone Development and Resource Management Standards), Chapter 22.65 (Coastal Zone Planned District Development Standards), and Chapter 22.66

(Coastal Zone Community Standards)

These proposed three IP chapters provide the standards for proposed development, including those that apply throughout the coastal zone, those that are specific to a particular zoning district, and those that are specific to a particular community. Chapters 22.64.030 and 22.64.040 include Tables 5-4 and 5-5, which list the siting and design parameters applicable to development within each zoning district, including minimum lot area, maximum residential density, minimum setback requirements, height limits, and maximum floor area ratio (FAR). These standards are identical to those specified in the existing certified IP, and generally reflect standard planning practice (e.g., 7,500 square foot minimum lot areas in single-family residential neighborhoods, 25-foot height limits for primary structures throughout the coastal zone, and zero front yard setbacks for structures within urbanized commercial districts). The tables also include footnotes to other chapters of the Development Code that may apply to the proposed development, including Design Review in Development Code Chapter 22.42, and height and setback requirements (including provisions specified in Chapter 22.20).

Proposed Sections 22.64.050 through 22.64.180 implement the LUP's coastal resource protection standards for biological resources; environmental hazards; water resources; community design; community development; energy; housing; public facilities and services; transportation; historic and archeological resources; parks, recreation and visitor-serving uses; and public coastal access. In general, these proposed sections implement the corresponding LUP policy via cross-reference, which is a similar construct as the existing certified IP. For example, Section 22.64.050(B)(1) states that "The resource values of ESHAs shall be protected by limiting development per Land Use Policies C-BIO-1, C-BIO-2, and C-BIO-3." These LUP policies in turn describe in detail the types of ESHA, the buffers required to protect the resource, and the allowable uses within both the ESHA itself and its buffer.

Finally, proposed Chapter 22.65 provides detailed site planning, development, and land use standards for particular zoning districts specified as planned zoning districts, which include C-APZ, C-ARP, C-RSP, C-RSPS, C-RMP, C-CP, C-RMPC, and C-RCR. This chapter includes additional requirements for these particular zoning districts, including specifying the development and resource protection standards for the C-APZ district.

Coastal Agricultural Production Zone (C-APZ)

The LUP's Agriculture chapter includes a series of detailed provisions particular to the C-APZ zoning district, which is the LCP's primary agricultural zone. The LUP, as modified by the Commission (and all as explained in more detail subsequently in this report), defines what constitutes agricultural uses, specifies what permitting status those uses may fall under (i.e., principally permitted, conditional, etc.), and identifies the required standards that development must meet (e.g., 60-acre minimum densities for a farmhouse, requirements that all development be clustered on no more than 5% of the land, and that adequate water be available to serve the proposed development). Since the conditionally approved LUP agricultural protection policies almost exclusively apply to the C-APZ, the IP proposes to implement these LUP policies within the zoning district-specific provisions of Chapter 22.65 as opposed to 22.64 (which, as stated above, lists the resource protection standards that apply to all development throughout the coastal zone, regardless of zoning district). Chapter 22.65.040(C) thus implements the standards specified in LUP Policies C-AG-2 through C-AG-10 largely by repeating and refining the

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corresponding LUP policy.

Specifically, Section 22.65.040(C)(1) lists the required development standards for agricultural development, including that development protect and maintain continued agricultural use, that it avoid being sited on prime agricultural land if possible, that adequate public services are available to serve the proposed development after provision has been made for existing and continued agricultural operations, and that farmhouses, intergenerational homes, and agricultural homestay facilities be placed in clusters along with non-agricultural development on a total of no more than five percent of the gross acreage, to the extent feasible. Section 22.65.040(C)(2) lists the standards and findings that must be made in order to permit non-agricultural development, including requirements for conservation easements, findings that agricultural use is no longer feasible, and that the non-agricultural development will not conflict with the continuation of agricultural uses on the remaining portions of the property, on adjacent parcels, or on other agricultural parcels within one mile of the proposed development.

LUP Policies C-AG-5 and C-AG-9, which specify detailed parameters for agricultural dwelling units located within C-APZ parcels, defined as farmhouses, intergenerational homes, and agricultural worker housing, are implemented in the IP both in Chapter 22.65 and in Chapter 22.62.060(E). As stated earlier, Chapter 22.62 introduces each of the coastal zone's zoning districts and lists the allowable uses within those districts. Section 22.62.060(E) prohibits permissible dwellings within the C-APZ zone from exceeding 7,000 square feet in size cumulatively, and from diminishing current or future agricultural use, among other requirements.

Finally, Chapter 22.66 provides development standards for the coastal zone's nine designated coastal villages. These standards cross-reference the Community Specific Policies chapter of the LUP, which are meant to preserve each coastal village's unique community character.

Chapter 22.68 (Coastal Permit Requirements), Chapter 22.70 (Coastal Permit Administration), and Chapter 22.130 (Definitions)

Chapter 22.68 defines what development requires a CDP, and conversely, and what types of development would qualify for categorical exclusion, exemption, or waiver from CDP requirements. Per proposed Section 22.68.040, development is categorically excluded if it is consistent with Coastal Act Section 30610(e) and the Commission's implementing regulations. Proposed Section 22.68.050 lists the types of projects that are exempt from CDP requirements. The IP's CDP exemption provision is intended to track the Coastal Act and Regulation's detailed CDP exemption provisions with respect to minor improvements, repair and maintenance, replacement after disaster, and emergency work, among others. The corresponding "non-exempt development" provision specified in Section 22.68.060 is also intended to track the Coastal Act and Regulations in this regard, and prohibits such exemption where the proposed development has the potential to impact sensitive or important coastal resources (e.g., improvements and repair and maintenance to structures located within 50 feet of the edge of a coastal bluff, within ESHA, etc.).

Finally, Section 22.68.070 includes a "de minimis waiver" procedure that allows the County to waive the requirement for obtaining a CDP for certain types of projects and when certain findings are made, including that the project cannot involve potential for adverse effects on

coastal resources, must be consistent with the LCP, and cannot be of a type or in a location where the project would be subject to a CDP by the Coastal Commission. The waiver is then also subject to certain procedural requirements, including public notice and opportunities for public comment, the concurrence of the Coastal Commission's Executive Director, and a Notice of Final Action sent to the Commission within seven calendar days of waiver issuance.

Chapter 22.70 provides the procedures for filing, processing, and acting on CDPs, de minimis waivers, exemptions, and categorical exclusions. Once an application is received, the Director is required to determine the permit category type, including whether the development is: (1) categorically excluded; (2) eligible for de minimis waiver; (3) qualifies as an administrative CDP application that does not require a public hearing; (4) qualifies as a public hearing application because the development is defined as appealable to the Coastal Commission; or (5) though appealable, qualifies for a public hearing waiver in which the public hearing may be waived when certain findings are made (the findings of which mirror the Coastal Act's hearing waiver allowance as specified in Section 30624.9, including that the development is consistent with the LCP, requires no other discretionary approvals other than the CDP, and will have no adverse effect on coastal resources). Proposed Section 22.70.040 allows an applicant or interested person to challenge this determination to the Planning Commission or Board of Supervisors within 10 business days of the determination. The permit category determination may also be challenged to the Coastal Commission in compliance with Section 13569 of the Commission's regulations, which allows the Executive Director or other interested person to challenge a permit category determination subject to specified criteria and process.

The proposed IP also lists the requirements for public noticing of CDP decisions (e.g., notice must be sent at least 10 days prior to a hearing or action and sent to all owners of property within 300 feet of the proposed development, among other requirements), as well as a process for appealing those CDP decisions to both the Planning Commission and/or Board of Supervisors, and to the Coastal Commission. Finally, the Chapter contains provisions related to required findings for CDP approval (Section 22.70.070), sending a Notice of Final Action to the Coastal Commission after the County's action is considered final and no local appeals have been filed (Section 22.70.090), requirements for processing permit amendments (Section 22.70.130), emergency permits (Section 22.70.140), and coastal zone variances (Sections 22.70.150-22.70.170), among others.

Finally, Chapter 22.130 provides a detailed glossary of terms and phrases used in the LCP. As previously stated, this chapter is located within Article VIII of the Development Code, and therefore applies to development both within and outside of the coastal zone. Terms denoted with "(Coastal)" apply solely within the coastal zone, while those without such denotation apply both within and outside of the coastal zone.

B. CONSISTENCY ANALYSIS

The standard of review for the proposed IP amendment is whether it is consistent with and adequate to carry out the conditionally certified LUP as that plan was approved with suggested modifications by the Commission at its May 15, 2014 hearing.

1. AGRICULTURE

A. Applicable Land Use Plan Policies

***Policy C-AG-2 Coastal Agricultural Production Zone (C-APZ).** Apply the Coastal Agricultural Production Zone (C-APZ) to preserve 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, compatible with, and necessary for agricultural production.*

In the C-APZ zone, the principal permitted use shall be agriculture, limited to the following:

1) Agricultural Production:

- *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, mariculture, horticulture, viticulture, vermiculture, forestry crops, and plant nurseries.*

2) Agricultural Accessory Structures;

3) Agricultural Accessory Activities;

4) One farmhouse or a combination of one farmhouse and one intergenerational home per legal lot, consistent with C-AG-5, including combined total size limits;

5) Agricultural worker housing, providing accommodations consisting of no more than 36 beds in group living quarters per legal parcel or 12 units or spaces per legal lot for agricultural workers and their households;

6) Other Agricultural Uses, if appurtenant and necessary to the operation of agriculture, limited to:

- *Agricultural product sales and processing of products grown within the farmshed, provided that for sales, the building(s) or structure(s), or outdoor areas used for sales*

do not exceed an aggregate floor area of 500 square feet, and for processing, the building(s) or structure(s) used for processing activities do not exceed an aggregate floor area of 5,000 square feet;

- *Not-for-profit educational tours.*

Conditional uses in the C-APZ zone include a second intergenerational home per legal lot, for-profit educational tours, agricultural homestay facilities, agricultural worker housing above 12 units per legal lot, and additional agricultural uses and non-agricultural uses consistent with Policies C-AG-5, 6, 7, 8 and 9.

Development shall not exceed a maximum density of 1 agricultural dwelling unit per 60 acres. Densities specified in the zoning are not entitlements but rather maximums that may not be achieved when the standards of the Agriculture policies below and other relevant LCP policies are applied. The County (and the Coastal Commission on appeal) may include all contiguous properties under the same ownership when reviewing a Coastal Permit application.

Policy C-AG-5 Agricultural Dwelling Units (Farmhouses, Intergenerational Housing, and Agricultural Worker Housing). Support the preservation of family farms by facilitating multi-generational operation and succession. Agricultural dwelling units may be permitted on C-APZ lands subject to the policies below, as well as any applicable requirement in C-AG-6, 7, 8, and 9, and all other applicable requirements in the LCP. Agricultural dwelling units must be owned by a farmer or operator actively and directly engaged in agricultural use of the property. No more than a combined total of 7,000 sq ft may be used as an agricultural dwelling by the farm owner or operator, whether in a single farmhouse or in a combination of a farmhouse and intergenerational homes(s). Only a single farmhouse or a combination of a farmhouse and intergenerational home(s) with the combined total of 7,000 square feet may be allowed for each farm owner or operator actively and directly engaged in agriculture, regardless of the number of legal lots each farm owner or operator owns. Intergenerational farm homes may only be occupied by persons authorized by the farm owner or operator, shall not be divided from the rest of the legal lot, and shall be consistent with the standards of LCP Policy C-AG-7 and the building size limitations of Policy C-AG-9. Such intergenerational homes shall not be subject to the requirement for an Agricultural Production and Stewardship Plan (C-AG-8), or permanent agricultural conservation easement (C-AG-7). A density of 60 acres per unit shall be required for each farmhouse and intergenerational house (i.e. at least 60 acres for a farmhouse, 120 acres for a farmhouse and an intergenerational house, and 180 acres required for a farmhouse and two intergenerational homes), including any existing homes. The reviewing authority shall consider all contiguous properties under the same ownership to achieve the requirements of the LCP. No Use Permit shall be required for the first intergenerational home on a qualifying lot, but a Use Permit shall be required for a second intergenerational home. No more than 27 intergenerational homes may be allowed in the County's coastal zone. Agricultural worker housing providing accommodations consisting of no more than 36 beds in group living quarters per legal parcel or 12 units or spaces per legal parcel for agricultural workers and their households shall not be included in the calculation of density in the following zoning districts: C-ARP, C-APZ, C-RA, and C-OA. Additional agricultural

worker housing above 36 beds or 12 units shall be subject to the density requirements applicable to the zoning district. An application for agricultural worker housing above 36 beds or 12 units shall include a worker housing needs assessment and plan, including evaluation of other available worker housing in the area. The amount of approved worker housing shall be commensurate with the demonstrated need. Approval of agricultural worker housing shall require recording a restrictive covenant running with the land for the benefit of the County ensuring that the agricultural worker housing will continuously be maintained as such, or, if no longer needed, for non-dwelling agricultural production related uses.

Policy C-AG-6 Non-Agricultural Development of Agricultural Lands. *Non-agricultural development is defined to include division of agricultural lands and any development not classified as Agriculture. Require that non-agricultural development shall only be allowed upon demonstration that long-term agricultural productivity, including on each parcel created in the case of a land division, would be maintained and enhanced as a result of such development, and that agricultural productivity on adjacent parcels would be maintained. In considering divisions of agricultural lands in the Coastal Zone, the County may approve fewer parcels than the maximum number of parcels allowed by the Development Code, based on site characteristics such as topography, soil, water availability, environmental constraints and the capacity to sustain viable agricultural operations.*

Policy 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. In addition to the requirements applicable to a specific land use and all other applicable requirements specified in the LCP, the following shall apply to development in the C-APZ:*

A. Standards for All Development in the C-APZ:

All of the following development standards apply:

- 1. Permitted development shall protect and maintain renewed and continued agricultural production and viability on-site and on adjacent agricultural lands. Development 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 such land is necessary, prime agricultural land shall not be utilized if it is possible to utilize other lands suitable for agricultural use. In addition, as little agricultural land as possible shall be used for structural development.*
- 2. Development shall be permitted only where adequate water supply, sewage disposal, road access and capacity and other services are available to support the proposed development after provision has been made for existing and continued agricultural production. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats, have significant effects on groundwater resources,*

or significantly reduce freshwater inflows to water bodies, including Tomales Bay, either individually or cumulatively.

3. *Permitted development shall have no significant adverse impacts on environmental quality or natural habitats, and shall meet all other applicable policies, consistent with the LCP.*
4. *In order to retain the maximum amount of land in agricultural production or available for future agricultural production, all infrastructure and structural development (e.g. agricultural accessory structures, other agricultural uses, and roads) shall be placed within a clustered development area of a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space.*

All new structural development shall be clustered within existing developed areas, except when:

- (a) placement outside such areas is necessary for agricultural operations (e.g. when a more remote barn is required in a different part of the property to allow for efficient agricultural operations); or*
- (b) when placement inside such areas would be inconsistent with applicable LCP standards (e.g. when such placement would be within a required stream setback area).*

In the latter case, new development shall be placed as close as possible to the existing clustered development area in a way that also meet applicable LCP standards.

Development shall be located close to existing roads, and shall not require new road construction or improvements resulting in significant impacts on agriculture, natural topography, major vegetation, or significant natural visual qualities of the site. Development shall be sited to minimize impacts on coastal resources and adjacent agricultural operations and shall be designed and sited to avoid hazardous areas.

B. Standards for Non-Principally Permitted Uses:

In addition to the standards of Section A. above, all of the following development standards apply to non-principally permitted uses. The County shall determine the density of permitted agricultural dwelling units or land divisions only upon applying Policy C-AG-6 and the following standards and making all of the findings listed below.

1. *Non-principally permitted uses shall only be allowed when such uses will serve to maintain and enhance agricultural production.*
2. *The creation of a homeowners' or other organization and/or the submission of an Agricultural Production and Stewardship Plan (APSP) may be required to provide*

for the proper utilization of agricultural lands, including their availability on a lease basis or for the maintenance of the community's roads, septic or water systems.

C. Standards for Non-Agricultural Conditional Uses:

In addition to the standards of Sections A and B above, all of the following development standards apply to non-agricultural conditional uses.

- 1. Where consistent with state and federal laws, a permanent agricultural conservation easement over that portion of the property not used for physical development or services shall be required for otherwise permissible land divisions and other non-agricultural development to promote the long-term preservation of these lands. Only agricultural and compatible uses shall be allowed under the easement. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that each will be retained as a single unit and will not be further subdivided.*
- 2. Proposed development shall only be approved after making the following findings:*
 - a. The development is necessary because agricultural use of the property would no longer be feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship or enhance agricultural operations on the remainder of the property.*
 - b. The proposed development will not conflict with the continuation or initiation of agricultural uses on that portion of the property that is not proposed for structural development, on adjacent parcels, or on other agricultural parcels within one mile of the perimeter of the proposed development.*
 - c. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development without extending urban services.*

Policy C-AG-9 Agricultural Dwelling Unit Impacts and Agricultural Use. *Ensure that lands designated for agricultural use are not de facto converted to residential use, thereby losing the long-term productivity of such lands, by the following means:*

- 1. Agricultural dwelling units, other than principally permitted agricultural dwelling units, shall be reviewed to ensure they do not diminish current or future agricultural production on the property or convert it to primarily residential use.*
- 2. Any proposed agricultural dwelling unit and related development subject to a Coastal Permit shall comply with LCP policies including ensuring that the mass and scale of new or expanded structures respect environmental site constraints and the character of the surrounding area. Such development must be compatible with ridge protection policies and avoid tree-cutting and grading wherever possible. All such development shall be*

clustered with existing structures and development on the farm, pursuant to C-AG-7, and shall be sited and designed to protect significant public views.

When considering proposed agricultural dwelling units, other than principally permitted agricultural dwelling units, the reviewing authority shall exercise its discretion in light of some or all of the following criteria for the purpose of ensuring that the land does not de facto convert to residential use:

- a. The applicant's history of production agriculture.*
 - b. How long term agricultural use of the property will be preserved — for example, whether there is an existing or proposed dedication or sale of permanent agricultural easements or other similar protective agricultural restrictions such as Williamson Act contract or farmland security zone.*
 - c. Whether long term capital investment in agriculture and related infrastructure, such as fencing, processing facilities, market mechanisms, agricultural worker housing or agricultural leasing opportunities have been established or are proposed to be established.*
 - d. Whether sound land stewardship practices, such as organic certification, riparian habitat restoration, water recharge projects, fish-friendly farming practices, or erosion control measures, have been or will be implemented.*
 - e. Whether the proposed development will facilitate the ongoing viability of agriculture such as through the transfer or lease of existing agricultural operations.*
- 3. In no event shall agricultural dwellings subject to these provisions exceed 7,000 square feet in size. Where a farmhouse and one or two intergenerational residence units are allowed in the C-APZ zone, the aggregate development of all homes on the subject legal lot shall not exceed 7,000 square feet.*
 - 4. However, agricultural worker housing, up to 540 square feet of garage space for each farmhouse, agricultural accessory structures, and up to 500 square feet of office space in the farmhouse used in connection with the agricultural operation on the property shall be excluded from the 7,000 square foot limitation.*
 - 5. The square footage limitations noted in the above criteria represent maximum agricultural dwelling unit sizes and do not establish a mandatory entitlement or guaranteed right to development; rather, site constraints and resource protection standards may require reduced size limits in any particular case.*
 - 6. Agricultural homestays, bed & breakfasts, home occupations, care facilities, group homes and similar uses allowed in the C-APZ zone may only occur within otherwise allowable agricultural dwelling units and not within additional separate structures.*

B. LUP Background

As previously discussed, agriculture is one of the primary uses of land within the Marin coastal

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zone. Nearly two-thirds of the County's coastal zone is zoned for agricultural production, supporting a healthy agricultural economy dominated by family farming operations. The LCP implements its agricultural protection standards primarily through the Coastal Agricultural Production Zone (C-APZ) zoning district. This single zoning district comprises nearly two-thirds of the non-federally owned coastal zone (30,781 acres out of a total of 48,255 acres), and contains the vast majority of Marin's existing agricultural lands, much of which is used primarily for livestock grazing rather than row crops because Marin's coastal zone contains little prime agricultural land suitable for row crop farming, and has limitations on water supply availability.

The conditionally certified LUP includes a chapter entitled Agriculture containing ten policies specific to the protection of agricultural lands and the enhancement of the agricultural economy. The policies specify both the allowable uses within the C-APZ district, the permitting status for those uses, and their required resource protection standards. The protection of both agricultural production and the agricultural economy, including in relation to allowing for uses that are incidental and supportive of agricultural production, are clear objectives for the conditionally certified LUP's agriculture policies, furthering the Coastal Act's objective of protecting agricultural viability in the state's coastal zone. Policy C-AG-2 states that the C-APZ district shall be the coastal zone's primary agricultural zoning district, and shall be applied to preserve agricultural lands that are suitable for intensive or land-extensive agricultural productivity, to areas that contain soils classified as Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, or Grazing Land capable of supporting production agriculture, and to any areas currently designated as C-APZ. Furthermore, the C-AG-2 requires all development within C-APZ to be accessory and incidental to, in support of, compatible with, and necessary for agricultural production.

Therefore, LUP Policy C-AG-2 designates one principally permitted use, Agriculture, for the C-APZ and lists the six types of agricultural development that are designated as principally permitted in the C-APZ when consistent with applicable LCP policies. The six types of development designated as principally permitted in C-APZ are:

- Agricultural production (defined to include a broad range of activities that use land for the production of food and fiber, including grazing, planting and harvesting of crops, and breeding of fowl, among others)
- Agricultural accessory structures
- Agricultural accessory activities
- One farmhouse or a combination of one farmhouse and one intergenerational home per legal lot, consistent with Policy C-AG-5, including combined total size limits and a limitation of one farmhouse per farmer or operator regardless of the number of legal lots each farmer or operator owns
- Agricultural worker housing, providing accommodations consisting of no more than 36 beds in group living quarters per legal parcel or 12 units or spaces per legal lot for agricultural workers and their households

- Other agricultural uses if appurtenant and necessary to agriculture, defined as agricultural processing of products grown within the farmshed and processed in structures 5,000 square feet or below, agricultural product sales of products grown within the farmshed and sold in structures 500 square feet or below, and not-for-profit educational tours.

Finally, LUP Policy C-AG-2 states that conditional uses (i.e., uses where County CDP decisions would be appealable to the Coastal Commission) within C-APZ lands include non-agricultural uses and development (such as land division) and additional agricultural uses that are not considered principally permitted, such as a second intergenerational housing unit, agricultural worker housing above the 12 unit/36 bed density threshold, agricultural product sales and processing of products not grown within the farmshed and/or not meeting the specified sizing limits, for-profit educational tours, and agricultural homestay facilities.

Next, the conditionally certified LUP lists the required standards that development must meet. Policy C-AG-7 contains three sets of standards for proposed development within the C-APZ: Policy C-AG-7(A): Standards for All Development; Policy C-AG-7(B): Standards for Non-Principally Permitted Uses; and Policy C-AG-7(C): Standards for Non-Agricultural Conditional Uses. Policy C-AG-7(A) lists the standards and findings required for all development within C-APZ lands, including that the maximum amount of land suitable for agricultural production is conserved and that prime agricultural land is not utilized for structural development if it is possible to utilize other lands, that development shall only be permitted where adequate water supply and other public services are able to support the proposed development after provision has been made for existing and continued agricultural production, and that development cannot have significant adverse impacts on environmental quality or natural habitats. Further, Policy C-AG-7(A)(4) requires all infrastructure and structural development to be placed within a clustered development area of a total of no more than five percent of the gross acreage, to the extent feasible. The policy also requires all structural development to be clustered within existing developed areas, with two exceptions: when placement elsewhere is necessary for agricultural operations or when placement would create an inconsistency with other LUP policies, such as for LCP-required 100-foot stream/wetland setbacks.

Policy C-AG-7(B) lists the additional standards for non-principally permitted uses and development (such certain agricultural development such as a second intergenerational home and for-profit educational tours), including that such development shall only be allowed with findings that they will serve to maintain and enhance agricultural production. Policy C-AG-7(C) also lists the requirements for non-agricultural, conditional uses and development, including land division. The LUP requires strong findings for any such proposal, including that such development is necessary because agricultural use would no longer be feasible; that such non-agricultural development not conflict with continued or initiated agricultural uses on that portion of the property that is not proposed for structural development, on adjacent parcels, or on other agricultural parcels within one mile of the perimeter of the proposed development; and a permanent agricultural conservation easement be placed on the remaining portion of the property not used for physical development.

Finally, the LUP also includes Policies C-AG-5 and C-AG-9, which list additional standards that agricultural dwelling units must meet, defining such units as farmhouses, intergenerational homes, and agricultural worker housing that must be owned by a farmer or operator actively and

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directly engaged in agricultural use of the property. Farmhouses and intergenerational homes are allowed within the C-APZ so long as the aggregate size of such units on a legal parcel does not exceed 7,000 square feet (plus an allowed 540 square feet of garage space and 500 square feet of office space in the farmhouse used in connection with the agricultural operation), they meet required 60 acre densities (i.e., a farmhouse is only allowed on a parcel of at least 60 acres and a farmhouse and intergenerational home are only allowed on parcels of 120 acres) and no more than a maximum of 27 intergenerational units are allowed in the County's coastal zone. Policy C-AG-5 also requires all intergenerational units to be consistent with any applicable requirements in Policies C-AG-6, C-AG-7, C-AG-8, and C-AG-9, which include the aforementioned standards on clustering, public service availability, and prime agricultural land avoidance.

Finally, Policy C-AG-5 allows only a single farmhouse or combination Farmhouse/intergenerational home(s) within the 7,000 square foot maximum for each farm owner or operator actively and directly engaged in agriculture, regardless of the number of legal lots the owner or operator owns. The policy's intent is to limit the proliferation of agricultural dwelling units in the coastal zone thereby protecting the agricultural economy and the long-term productivity of the agricultural lands. Instead of allowing the same farmer multiple farmhouses spread across multiple parcels, including contiguously owned legal parcels that are under common ownership, the policy only allows for one farmhouse, or one farmhouse and up to two intergenerational homes to allow for family members (or any other person authorized by the owner) to live on the farm property, regardless of how many parcels he/she owns.

Finally, it is important to note that because the LUP defines agriculture to include both agricultural *production* (i.e., the physical use of the land to grow/produce a commodity), as well as the structural development and activities incidental and accessory to agricultural production (i.e., barns, farmhouses, processing facilities, etc.), the LUP includes particular policies specific to the protection of either agricultural *production* or agricultural *use*. For example, Policy C-AG-7(A)(4) requires all development to retain the maximum amount of land in agricultural *production*, since the policy's intent is to limit the amount of land used for structural development. If the policy simply protected agricultural use, then structural development such as farmhouses and processing facilities would not need to minimize their footprint on the land since they are defined as agriculture. Conversely, Policy C-AG-5 requires agricultural dwelling units to be owned by a farmer or operator actively and directly engaged in agricultural use of the property. The term agricultural *use* is used here to allow for the owner to be engaged in the broad agricultural activities undertaken on the farm, including presiding over agricultural leases, without having to be actively working the fields for production activities. Thus, the terms agricultural use and agricultural production are distinct terms that have different meanings with respect to the LUP's policies.

In summary, the LUP identifies the C-APZ zoning district as the LCP's primary agricultural zone, specifies the allowable uses and the permitting requirements for development designated as permissible within that zone, and lists a hierarchy of required development standards. The conditionally certified LUP policies thus serve as a strong agricultural protection base upon which the IP must conform and adequately implement.

C. Proposed Implementation Plan

The proposed IP implements the aforementioned LUP agricultural protection policies in various sections. Chapter 22.32 includes standards for specific development, including agricultural dwellings such as farmhouses, intergenerational housing, and agricultural worker housing. The section describes the standards applicable to those listed development types, including specifying in which zoning district they are allowed, limitations on use (including that intergenerational homes shall not be subdivided from the rest of the agricultural legal lot), and permitting requirements, including requiring a restrictive covenant for agricultural worker housing ensuring that such housing will be continuously maintained as such. Chapter 22.62 includes Table 5-1 that lists the allowable land uses and their permitting status for the C-APZ district. The table designates specified types of agricultural development as principally permitted, including accessory activities and structures, one intergenerational home, one farmhouse, and agricultural production, with additional agricultural development (such as a second intergenerational home and agricultural processing facilities of greater than 5,000 square feet), all subject to certain criteria. Table 5-1 also classifies non-agricultural development such as campgrounds and public parks/playgrounds as permitted or conditional uses. The table cross-references other applicable IP sections that may apply to development allowed within C-APZ, including the use-specific standards specified in Chapter 22.32, the resource protection standards that apply coastal zone-wide in Chapter 22.64, and the zoning district-specific standards specified in Chapter 22.65. Finally, as discussed earlier, Section 22.65.040 describes the specific standards for the C-APZ, and lists the required development standards applicable for agricultural development (including that permitted development shall protect and maintain continued agricultural use and contribute to agricultural viability) and non-agricultural development (including that permanent conservation easements shall be required to preserve undeveloped land).

D. Consistency Analysis

As with the rest of the proposed IP submitted by the County at the same time as it submitted its updated LUP, the IP's agricultural protection policies as proposed are based upon implementing the Land Use Plan *before* it was certified by the Commission with suggested modifications on May 15, 2014. The LUP's agricultural protection policies were the subject of numerous modifications made by the Commission, including in terms of defining the types of development that would be designated principally permitted within C-APZ and the required development standards within the C-APZ. As such, the IP as proposed by the County does not implement all of the LUP's conditionally certified development parameters. For example, LUP Policy C-AG-7 specifies that *all* structural development must be clustered within five percent of the gross acreage, while proposed IP Section 22.65.040(C)(1)(d) requires only non-agricultural development, farmhouses, intergenerational homes, and agricultural homestay facilities to cluster. Similarly, while the LUP was amended by the Commission to state that all development must protect and maintain agricultural *production* (and not just agricultural *use*, since, as described above, the LUP's definition of agriculture encompasses structural development such as agricultural dwelling units), the corresponding modification is not proposed in the IP. Finally, and perhaps most substantively, the LUP requirement that only a single farmhouse be allowed per farm owner or operator, regardless of the number of legal lots he/she owns, is not reflected in the proposed IP, which instead maintains up to a maximum of one farmhouse per legal lot.

Therefore, the proposed IP is not consistent with, and is not adequate to carry out, the

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conditionally certified LUP as approved by the Commission and must be denied as submitted. The IP can be approved only with the following suggested modifications that add in all the newly amended and conditionally certified LUP requirements, further clarify the meaning and procedural requirements of those terms and standards, and also refine the necessary parameters that principally permitted agricultural development must meet.

Development Standards

As previously discussed, while Section 22.65.040(C) lists some of the required standards that proposed development must meet within the C-APZ, it does not include all of the LUP's provisions, either because the corresponding LUP modification has yet not been reflected in the IP, or because some LUP standards are listed in other sections of the IP. For example, Policy C-AG-9, which lists requirements for agricultural dwelling units (including that all such units shall be clustered with existing development and sited and designed to avoid significant public views, as well as requirements that agricultural homestays and other home occupations in C-APZ shall only be within otherwise allowable dwelling units and not within additional separate structures), is implemented in IP Section 22.62.060(E), a section that introduces the C-APZ zoning district's purpose and intent and includes Table 5-1 which lists its allowable land uses. Additionally, some standards specific to particular agricultural land uses, such as intergenerational homes, are listed in Chapter 22.32, such as Section 22.32.024(B) that states that intergenerational homes shall not be divided or sold separately from the primary agricultural legal lot (as required of LUP Policy C-AG-5).

In order to implement all applicable LUP provisions for development within the C-APZ district in one IP section, and not disjointed in various parts, Section 22.65.040(C)(1) is thus modified to list all standards applicable for development within C-APZ. The standards mirror the structure of LUP Policy C-AG-7(A-C) which contains three sets of development standards: those for all development, those for development that is not designated as principally permitted, and those for non-agricultural conditional uses and development, including land divisions. Akin to what the conditionally certified LUP requires, the IP is thus modified to state that all development shall protect and maintain renewed and continued agricultural production, shall not be located on prime agricultural lands when possible, shall only be permitted when public services are available to serve it after provision has been made for existing and continued agricultural production, and that all structural development shall be placed within a clustered development area of a total of no more than five percent of the gross acreage of the farm, to the extent feasible.

Additionally, the various sections that implement LUP policies pertaining to certain agricultural development within C-APZ lands that are listed in multiple IP sections are deleted and instead inserted directly into Section 22.65.040. For example, Section 22.62.060(E)'s listing of standards for agricultural dwelling units are deleted and instead inserted into Section 22.65.040(C)(4), while some of the various policy standards listed for specific land uses in Chapter 22.32 (including for farmhouses, intergenerational homes, agricultural worker housing, and agricultural product sales and processing facilities) are also moved into Sections 22.65.040(C)(1)(e) and (f). Consolidating many of the provisions applicable to these agricultural dwellings at the same time these provisions are made consistent with the conditionally certified LUP results in the IP better conforming and carrying out all of the LUP requirements specific to agricultural dwelling units

and agricultural processing and sales facilities, respectively, including that no more than 27 intergenerational homes may be allowed in the coastal zone (per LUP Policy C-AG-5).

Clustering

The above mentioned suggested IP modifications primarily rearrange the IP standards for clarity purposes and/or make a change required for consistency with the corresponding LUP policy as that policy was conditionally certified. However, some LUP policies require further clarification in order to be properly implemented. For example, while LUP Policy C-AG-7(A)(4) and modified IP Section 22.65.040(C)(1)(d) require that all infrastructure and structural development be placed within a clustered development area of a total of no more than five percent of the farm's acreage to the extent feasible, the proposed IP does not define the process by which the reviewing authority shall ensure that development is placed within this allowable building area. Therefore, a suggested modification defines such a process, including that an application for development must include a map of the development area. The development area shall include all existing structural development and cannot exceed five percent of the farm's acreage. Development outside of this demarcated area is only allowed when found to be consistent with allowed exceptions, including that placing development outside the area is necessary for agricultural operations or when it would be inconsistent with other LCP policies (including, for example, when placing development within the clustered development area would result in placement within a required wetland or stream buffer). As modified, the IP includes a clear process for identifying and implementing the LUP's clustering requirements.

Agricultural Dwelling Units

Policy C-AG-5 allows only a single farmhouse or a combination of one farmhouse and up to two intergenerational homes per farm owner or operator, regardless of the number of legal lots he/she owns. As discussed previously, the conditionally certified LUP policy examines all legal parcels under common ownership that together constitute one unified farming operation. The policy is consistent with and implements other LUP policies that require the maximum amount of land be left in agricultural production and that all development within C-APZ be necessary for agricultural production. Since Policy C-AG-5 requires a farmhouse to be owned by a farmer or operator actively and directly engaged in agricultural use of the property, and since the IP as proposed by the County (see Section 22.32.025(B)) requires the farmhouse to be designed for and/or occupied by the farm operator or owner who makes day-to-day management decisions for the agricultural operation and is directly engaged in the production of agricultural commodities for commercial purposes on the property, findings could never be made that a second farmhouse on the same farm for the same farmer is necessary for agricultural production and retains the maximum amount of land in agricultural production. As such, the policy serves as a proactive mechanism to avoid the potential for a farmer to own multiple farmhouses spread across multiple legal agricultural lots.

Furthermore, because of the allowance for up to two intergenerational homes on the same parcel as the farmhouse (if the required 180 acre density is met and the aggregate size of the units does not exceed 7,000 square feet, among other requirements), Policy C-AG-5 essentially serves as a clustering tool. Instead of multiple farmhouses spread across multiple legal lots, the policy allows up to three dwelling units clustered together on one parcel. If a farmer owned two contiguous legal parcels of 60 acres each, the farmer would only be allowed one farmhouse on

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one parcel and, unless the farmer voluntarily merged his or her two legal lots, would not be allowed any other units since the intergenerational home must be on the same parcel as the farmhouse (i.e., a 120 acre parcel). Thus, the policy also serves as an incentive to retain large parcel size in order to meet the density requirements.

As described above, Policy C-AG-5 necessitates detailed implementing procedures in order to effectively implement its requirements. Therefore, suggested modifications have been added to IP Section 22.65.040(C)(1)(e), as follows. First, subsection (e)(1) requires the agricultural dwelling unit to be owned by a farmer or operator actively and directly engaged in agricultural use of the property, and requires the applicant for an agricultural dwelling unit to identify that he/she is actively and directly engaged. In order to define precisely what “actively and directly engaged” means, the suggested modifications utilize the same terms used by the County in Section 22.32.025(B) (pertaining to who may live in a farmhouse), specifying that it means the person makes day-to-day management decisions for the agricultural operation and is directly engaged in production of agricultural commodities for commercial purposes on the property. Thus, the County’s own language is inserted in subsection (e)(1) to clarify and define what “actively and directly engaged” means. Subsection (e)(2) lists C-AG-5’s requirement that no more than 7,000 square feet may be used for agricultural dwellings, whether in one farmhouse or in one farmhouse and two intergenerational homes.

Subsection (e)(3) is the primary mechanism to ensure that only a single farmhouse per farm is allowed. The standard requires the applicant, as part of his application for a farmhouse or intergenerational home, to identify the farm, which shall consist of all parcels owned (in either total or partial fee ownership) by the same owner of the property upon which the proposed farmhouse is located. Once those parcels are identified, the applicant shall identify all existing agricultural dwelling units on those parcels, and shall demonstrate that the proposed unit will be located on a legal lot. This requirement ensures that an additional farmhouse will not be located on parcels where a farmhouse currently exists, and to ensure that a proposed intergenerational home will be located on the same legal lot as the existing farmhouse, all as required by subsection (e)(5). Subsection (e)(5) also requires the execution of a covenant on the legal lot containing the proposed farmhouse or intergenerational home specifying that the agricultural dwelling may not be divided from the rest of the legal lot, and that future land division of that legal lot is prohibited. The prohibition on land division is a tool to ensure that the legal lot containing the agricultural dwelling unit both retains its required density in perpetuity (i.e., remains at least 60 acres if just a farmhouse, 120 acres if a farmhouse and one intergenerational home, etc. and therefore will not become nonconforming with respect to density/parcel size), while also ensuring that the land the dwelling is located upon remains actively used for agricultural production. The standard cross-references IP Sections 22.32.024 and 22.32.025, which contains the detailed requirements for the restrictive covenant required of all farmhouse and intergenerational home approvals. The covenant must include assurance that the legal lot containing the agricultural dwelling not be divided and continue to be used for agricultural production, and that the owner of such dwelling remain actively and directly engaged in agricultural use of the property, as that term has been defined in the IP. Essentially, the prohibition on land division and the covenant codify what the County has already done in practice since original LCP approval in 1982: disallow subdivision of C-APZ parcels when houses are developed and ensure that the occupants/owners of agricultural dwellings be bona

vide farmers working the land for production purposes. These requirements implement LUP policies that require the maximum amount of land remain in agricultural production, and that all development be necessary to, and protect and maintain continued agricultural production.

In summary, LUP Policy C-AG-5's requirements are implemented in modified IP Section 22.65.040(C)(1)(e). The section requires an applicant to identify the parcels he/she owns that constitute the farm, identify that he/she is a farmer actively and directly engaged in agricultural use of the property, and identify whether and where agricultural dwellings currently exist on those parcels. An intergenerational home must be located on the same parcel as the existing farmhouse, and any approval for a farmhouse or intergenerational home must include a deed restriction that ensures that use of the legal lot containing the agricultural dwelling remain confined to agriculture, the owner of such dwelling remain actively and directly engaged in agricultural use of the farm, and that the property containing the dwelling not be further divided. These standards ensure implementation of C-AG-5's detailed agricultural dwelling unit requirements.

Definition of Farm

As described above, IP section 22.65.040(C)(1)(e)(3) requires the applicant to identify his/her "farm". As the section describes, the "farm" shall consist of all legal parcels owned in either total or partial fee ownership by the applicant. Those identified parcels are then allowed one farmhouse and up to two intergenerational homes, if they meet certain criteria. However, in discussion with members of the agricultural community, concern has arisen about the ability to develop a second farmhouse if the applicant owns non-contiguous parcels. Essentially, if an applicant owns one parcel or a group of contiguous parcels in one part of the coastal zone, but then also owns a separate parcel or group of parcels elsewhere in the coastal zone, which may entail a separate, independent farming operation, then he/she should be able to develop both "farms" (i.e., both sets of parcels) with the allowed farmhouse/two intergenerational units.

Because a primary intent of Policy C-AG-5 is to view agricultural dwellings from a "farm" perspective, including because the genesis of the policy is to ensure that all development must be necessary for agricultural production, if non-contiguous parcels under common ownership are indeed separate, wholly independent farming operations, then allowing agricultural dwelling units on both "farms" is consistent with LUP agricultural protection policies. Therefore, the language of this section defines "farm" to be all properties owned by the applicant, and at a minimum shall consist of all contiguous legal parcels under common ownership (to guard against the possible abuse that a claim is made that, for example, three contiguously owned legal parcels constitute three separate farming operations necessitating three farmhouses, thereby circumventing the entire intent of Policy C-AG-5). However, if non-contiguous parcels are determined to be a wholly independent farming operation, they may constitute an independent farm. The key, then, is what factors should be considered to determine whether non-contiguous parcels do indeed constitute an independent farm. Policy C-AG-9, as proposed by the County, as well as the Agricultural Stewardship Plan requirements currently utilized by the County, lists some of the criteria used to determine whether certain agricultural dwelling units will convert agricultural lands to residential use. These criteria, as listed in Policy C-AG-9(3)(a-e), include whether long-term capital investment in agriculture and related infrastructure has been undertaken, including processing facilities, agricultural worker housing, or agricultural leasing.

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Thus, these County-utilized standards that are already used to determine the compatibility and consistency of agricultural dwelling units on agricultural lands have been inserted into 22.65.040(C)(1)(e)(3). Thus, as modified, the farm owner or operator may be allowed a farmhouse and up to two intergenerational homes only if the farm owner or operator can demonstrate, including by such measures as the type of products grown, the history of the operations, leasing, and infrastructure, that non-contiguous parcels are indeed wholly independent farming operations.

Buildout

Public comments have asserted that the Commission-approved LUP, and the proposed IP, would increase development potential on C-APZ lands, both because of the way in which “parcel” is defined in the existing and Commission-approved LUP, and because of the new allowance for intergenerational housing units. However, as described at the Commission hearing on the conditionally certified LUP, the development potential on C-APZ land will only be reduced under the proposed LCP language. First, the existing certified IP defines a parcel as all contiguous assessor’s parcels under common ownership, unless legally divided. An assessor’s parcel is not necessarily a legal lot in part because it is not uncommon for landowners to request separate parcels for tax purposes, and separate assessor’s parcels can be provided without a land division occurring. Thus, an assessor’s parcel does not in of itself constitute a separate legal lot, which is why the existing IP uses the phrase “all contiguous assessor’s parcels under common ownership, unless legally divided” to ensure that separate legal parcels are the unit of measurement. Therefore, the language of the existing IP is meant to ensure that a group of assessor’s parcels owned by the same entity are not automatically considered a legal lot. The Commission-approved LUP and the IP amendment, as modified, simplifies the language by using the term legal lot.

Furthermore, Policy C-AG-5 and IP section 22.65.040(C)(1)(e)(3) only allow a single farmhouse/two intergenerational homes per farm, which may consist of multiple separate legal lots. Whereas, under the existing certified IP, a farmer is potentially allowed up to a maximum one farmhouse per legal lot, under the conditionally certified LUP and the proposed IP as modified, the farmer is only allowed one farmhouse per farm, regardless of the number of legal lots that constitute that farm. Therefore, the development potential on each lot is not increased under either the conditionally certified LUP or the IP as modified.

As part of its submittal, the County calculated a buildout analysis in order to understand the cumulative impact the new LCP policies would have on C-APZ parcels. The County reviewed parcel data and found that there are 193 privately owned C-APZ parcels in the coastal zone. Of the 193 parcels, 40 are subject to easements held by the Marin Agricultural Land Trust (MALT), and 123 are subject to Williamson Act contracts. Based on County assessor’s data, 125 of the 193 parcels are currently held in common ownership over 40 ranches (i.e., of the 193 total C-APZ parcels, 68 of them are owned by an owner that does not own any other C-APZ parcels, while 125 parcels are owned by owners that own multiple parcels that together constitute 40 “ranches”). In calculating buildout, the County excluded all existing parcels that currently have a farmhouse, excluded all lands subject to MALT easement or Williamson Act contract from being allowed an intergenerational home, assumed that a substandard lot (i.e., one below 60 acres) would be allowed a farmhouse, and then calculated allowable intergenerational homes by the

acreage of the parcels (i.e., one intergenerational unit allowed if the parcel is 120 acres, and second allowed if 180 acres). Based on these assumptions, the County found that there was the potential to build a maximum of 83 additional farmhouses and 27 intergenerational units. This 27 unit assumption became the basis for the 27 intergenerational unit cap in the coastal zone as approved by the Commission in Policy C-AG-5 (and implemented in proposed IP Section 22.65.050(C)(1)(e)(7)).

However, the County's buildout estimates assumed that a farmhouse would be allowed on every legal lot. Thus, the analysis did not reflect that some parcels might not be legal lots or that some parcels are contiguous lots owned by one farmer or operator, who would only be allowed one farmhouse under the LUP as conditionally approved by the Commission.

Thus, in order to further document buildout based on the conditionally certified LUP and the IP as suggested to be modified, Commission staff prepared an updated buildout analysis. In order to ascertain the total number of C-APZ parcels that would be allowed dwelling units, staff excluded publicly-owned parcels and parcels subject to permanent MALT agricultural conservation easement, included parcels that touch the coastal zone boundary where the majority of the parcel is located within the coastal zone, and also included parcels subject to Williamson Act contracts since such contracts can expire. The County did not include split-zoned nor Williamson Act parcels in its analysis, which explains why, including these parcels, Commission staff found that there are 232 total privately-owned C-APZ parcels in the coastal zone, as opposed to the County's estimate of 193. Of the 232 total C-APZ parcels, the average size is 152 acres, forty parcels are under 60 acres in size, and 192 are above 60 acres.⁴ Of the 40 sub-60 acre parcels, 27 are the only parcel owned by the owner, while 13 are held in common ownership with other parcels. Of the 193 parcels over 60 acres, 39 are the only parcel owned by the owner, and 153 are owned by people that own multiple parcels. Finally, of the 50 owners that own the 153 parcels, six owners own parcels that are non-contiguous (meaning that, under Section 22.65.050(C)(1)(e)(3), these six owners could pursue additional farmhouses if the findings could be made that those non-contiguous parcels constitute wholly independent farming operations).

Under the assumptions that parcels with existing farmhouses were not allowed an additional one, including commonly owned contiguous parcels (consistent with C-AG-5 and Section 22.65.040(C)(1)(e)(3)), and that sub-60 acre parcels where the parcel was the only parcel owned by that owner were allowed a farmhouse, staff calculated a total of 48 potential new farmhouses allowed under the IP's proposed standards, as modified. Furthermore, without the conditionally certified cap of 27 intergenerational homes, a total of 94 intergenerational units could be allowed, highlighting the importance of the approved LUP's 27 unit cap on intergenerational homes.

Thus, under the County's analysis, there would be a maximum potential of 83 additional farmhouses and 27 intergenerational units (84 intergenerational units if including Williamson Act parcels), for a total of up to an additional 110 units. Under the conditionally certified LUP and the IP as suggested to be modified by the Commission, there would be a maximum potential

⁴ There are a total of 287 C-APZ parcels within the coastal zone, including 232 that are privately owned and 55 there are publicly owned. Of the total number of C-APZ parcels, 100 have been built with at least one farmhouse (35%), and of the 232 privately owned parcels, 99 (43%) have been developed with at least one farmhouse.

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of up to 48 new farmhouses and up to 27 intergenerational units, for a total of up to 75 units. Finally, under the existing certified LCP, which allows up to a maximum of one farmhouse per legal lot and does not allow intergenerational units, there is the potential for a maximum of 83 additional farmhouses per the County's analysis.⁵ Therefore, the conditionally certified LUP and the proposed IP, as modified, significantly reduce the maximum potentially allowable buildout of agricultural dwelling units.

Finally, Commission staff's analysis is based on consideration of a larger number of C-APZ parcels (232) as compared with the County's analysis (193), because of the inclusion of Williamson Act parcels and parcels bisecting the coastal zone. As a result, the difference is even greater, relatively speaking, between the County's analysis under the proposed IP, and the IP as it would be modified. Thus, it is clear that the IP, as suggested to be modified, reduces the maximum potentially allowable buildout in the coastal zone, and, as described earlier, will ensure that permissible dwelling units are clustered together as opposed to spread out on individual legal lots.

Principally Permitted Uses (PPUs)

As previously discussed, LUP Policy C-AG-2 lists the six types of agricultural development that are principally permitted when they meet applicable criteria and standards. In addition to meeting all applicable LCP standards (including those specified in LUP Policy C-AG-7, and implemented in modified IP Section 22.65.040(C)), Policy C-AG-2 lists additional specific standards required to be met in order to be considered a principally permitted agricultural use. For example, Policy C-AG-2(1) states that agricultural production is a type of development that is principally permitted in C-APZ, and then lists the types of uses that constitute agricultural production, including the raising of all types of agricultural products and commodities (including the use of land for the production of food and fiber; the breeding and grazing of livestock; as well as the planting, raising, and harvesting of agriculture, viticulture, and crop nurseries). Policy C-AG-2(6) specifies that the processing and sales of products grown within the farmshed and processed within facilities of 5,000 square feet or less and sold within facilities 500 square feet or less also comprise development that is principally permitted in the C-APZ zoning district. Any facilities above these thresholds are conditional.

Of particular importance and specificity is Policy C-AG-2(4)'s designation of one farmhouse or a combination of one farmhouse/one intergenerational home per legal lot as principally permitted when consistent with Policy C-AG-5, including its specified sizing limits. As previously discussed, Policy C-AG-5 includes detailed requirements for agricultural dwelling units, defined as a farmhouse, intergenerational home, and agricultural worker housing. Among these requirements is a 7,000 square foot aggregate sizing limit on agricultural dwelling units, meaning that no home within the C-APZ can be greater than 7,000 square feet. When an intergenerational home is allowed in addition to a farmhouse, the total size of both homes still must be capped at

⁵ Because the County did not include Williamson Act parcels and parcels bisected by the coastal zone boundary, but Commission staff's analysis did, it is likely that the County's estimates would increase by some 50 units if those parcels were added, leading to a total of some 133 additional units for the current LCP, and a total of some 160 (110 + 50) additional units under the LCP as proposed under County methodology, as opposed to 75 additional units under the Commission-approved LUP and IP as estimated by staff. In other words, as proposed to be modified, the buildout potential would be reduced by more than half as compared to the existing LCP.

no more than 7,000 square feet (i.e., the two homes would average a maximum of 3,500 square feet). Additionally, the size requirements of the homes work in concert with the density requirements of the parcel. The C-APZ zoning district requires a 60-acre density for each home. Thus, a parcel must be 120 acres in order for an intergenerational home to be allowable. Finally, C-AG-5 allows only one 7,000 square foot allotment of agricultural dwelling units per farm owner or operator, regardless of the number of legal lots the owner/operator owns, all as described previously.

In conditionally certifying the Land Use Plan's agricultural protection policies in May 2014, the Commission found that it is appropriate to classify other types of agricultural development beyond agricultural production and accessory structures such as barns as a type of agricultural development that is principally permitted within the C-APZ, so long as there are quantitative, objective criteria to ensure that such development protects and enhances agricultural production. Essentially, because such development will not be appealable, they must be subject to readily implementable standards. Therefore, the LUP sets up a structure in which certain development is designated as principally permitted when it meets certain specified LCP criteria; when it does not, it is classified as appealable or is not allowed.

However, the IP as proposed by the County does not adequately specify all the requirements that the six types of agricultural development must meet in order to be classified as principally permitted. First, the proposed IP's use charts in Table 5-1 within Chapter 22.62 do not specify all the standards that agricultural development that is designated as principally permitted must meet. Instead, the Table only lists some of the required standards, such as specifying that agricultural processing facilities 5,000 square feet and under are principally permitted, and that those above that size threshold are conditional. Missing from the table are additional LUP requirements that permissible development must meet in order to be considered principally permitted, including that such products must be grown within the farmshed. Additionally, while Chapter 22.65.040(C), as modified, lists all applicable LUP provisions for development within C-APZ lands, it does not implement the LUP's requirement that principally permitted agricultural development be subject readily implementable standards. In other words, the IP does not adequately define certain LUP policies as they apply to principally permitted development in the C-APZ so that it meets clear, enforceable, and objective standards.

As such, suggested modifications are required to be made to the submitted IP that list such standards. Specifically, Section 22.65.040(C)(1)(e)(9) lists the applicable requirements that principally permitted agricultural dwelling units must meet. The subsection includes five such standards, some of which are inserted directly from LUP Policy C-AG-2, including that only one farmhouse or one farmhouse/one intergenerational home with the combined total of 7,000 square feet is allowed for the farm identified in 22.65.040(C)(1)(e)(9), regardless of the number of legal lots the farm owner or operator owns that constitute the farm, and that agricultural worker housing must consist of no more than 36 beds or 12 units per legal lot. There are also three additional standards that agricultural dwelling units must meet, all derived from the existing requirements that all development must meet per both LUP Policy C-AG-7 and modified Section 22.65.040(C): that the agricultural dwelling is not placed on land designated as prime; is placed within the mapped clustered development area and not require any new road construction; the intergenerational home is within 100 feet of the farmhouse; and the dwelling does not require

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any coastal zone variance (see IP Section 22.65.040(C)(1)(e)(9)(a-e)). These four standards ensure that development designated as principally permitted in the C-APZ is subject to readily implementable, objective standards. For example, while LUP Policy C-AG-7(A)(1) states that all development shall avoid prime agricultural lands *when feasible*, and LUP Policy C-AG-7(A)(4) requires all structural development to be placed within the five percent clustered development area *except when* placing outside the area is necessary for agricultural purposes or otherwise LCP inconsistent, allowing such broad discretion for principally permitted agricultural development is not consistent with LUP mandates that such principally permitted development be subject to unambiguous standards. Furthermore, while the LUP and IP require that all development meet the LCP's visual resource protection standards and be sited and designed to avoid grading and road construction, the specificity required to implement such policies is stated in the IP's requirements that principally permitted intergenerational houses must be within 100 feet of the farmhouse and not require any new road construction. These are quantitative, objective metrics that ensure that certain standards are implemented in a manner that reflects the necessary specificity needed to ensure that specified non-appealable development is being appropriately sited and designed. Finally, development requiring the approval of a coastal variance is not designated as principally permitted, particularly in a zoning district such as C-APZ that encompasses such a great expanse of the Marin coastal zone and contains protected agricultural lands.

Similar to the standards for agricultural dwelling units, principally permitted agricultural products sales and processing facilities must meet the specified standards listed in IP Section 22.65.040(C)(1)(f). These standards include the aforementioned requirements that such facilities not be located on prime agricultural lands, be located within the designated five percent cluster area, and not require any coastal zone variance. Additionally, the section specifies that principally permitted processing and sales facilities shall only use products grown/produced on the same site or on other properties located within Marin County or Sonoma County (thereby defining the "farmshed" concept specified in Policy C-AG-2).

Therefore, as modified, IP Section 22.65.040(C) includes a series of standards that implement applicable LUP requirements, including specifying the required standards that principally permitted agricultural development must meet. The standards are then cross-referenced in Chapter 22.62's Table 5-1, which specifies that principally permitted agricultural development must meet all standards in Section 22.65.040(C)(1)(e)(1-9). Those that only meet the standards specified in subsections (e)(1-8) are classified as permitted uses (which are appealable to the Coastal Commission), and those that do not meet all of (e)(1-8)'s standards are not allowed. All of these standards are meant to ensure that principally permitted agricultural development meets the highest of standards and offers little interpretation to allow for deviations from those defined standards. When development meets such specificity, then it appropriately ensures that agriculture is protected, consistent with the Commission's approval of the Land Use Plan. Therefore, the IP as modified is consistent with and adequate to carry out the conditionally certified Land Use Plan as it relates to principally permitted development within the C-APZ district.

Permitting of Agricultural Development

Proposed IP Section 22.68.030 (Coastal Permit Required) states that a CDP is required for all development in the coastal zone, and provides an interpretation of activities that do or do not fall under the definition of development. Section 30106 of the Coastal Act states that the removal or harvesting of major vegetation for agricultural purposes is not development, but that any change in the intensity of use of land or water is development, as is grading. The County has offered an interpretation of these provisions that ongoing agricultural operations including cultivation, crop and animal management, and grazing that exist presently or historically and do not entail new encroachment within 100 feet of the edge of a wetland, stream, or riparian vegetation is not considered to be development or a change in the intensity of use of land.

The Commission has grappled with the question of what types of agricultural activities constitutes development numerous times, and on March 19, 1981, the Commission issued a policy statement clarifying that it had jurisdiction over *expansion* of agricultural activities located in areas containing major vegetation. The Commission determined that expansion of agricultural uses into areas of native vegetation constitutes a “change in the intensity of the use of land” and is therefore development under the Coastal Act. The Commission’s determination concerned vegetation removal that changes the use of the land from open space or another natural use to a cultivated agricultural use. The Commission recommended various criteria to determine whether adverse impacts are possible, including considering the steepness of slopes, proximity to wetlands, streams and other habitat, and the effect of the proposed expanded agricultural operation on water resources and supply. New and expanded agriculture is also a change in the intensity of the use of land and water for a variety of additional reasons, including because preparing land for new agricultural use requires clearing the land of existing vegetation, and growing crops and livestock requires a significant amount of additional water, unlike the land’s water needs in its natural state. Thus, removal of major vegetation in association with new and expanded agricultural operations requires a CDP, so such activities cannot be exempted from CDP requirements in the LCP. In addition, because the Coastal Act and LCP definitions of development do not exclude *grading* for agricultural purposes (as they do for the *removal of major vegetation* for agricultural purposes), all grading requires a CDP, unless it is otherwise exempt or excluded. Thus, activities for ongoing agricultural production operations can be exempt from CDPs consistent with the LCP’s definition of development, but activities for new and expanded agricultural production operations cannot be exempt from CDP requirements because, as described above, they constitute a change in the intensity of the use of land and water.

Thus, as proposed, the IP is inconsistent with Section 30106 including because it does not differentiate between different types of agricultural activities (including converting grazing land to row crops such as viticulture) that constitute development because they are a change in the intensity of use of land and/or require grading; does not state that any expansion of agricultural uses into areas not previously used for agricultural purposes requires a CDP (it only states that expansion within 100 feet of a wetland, stream, or riparian vegetation requires a CDP, which by itself is inconsistent with the LCP because, according to the LCP’s biological resources provisions, new agricultural uses are not allowed within these areas); and only defines grading as 150 cubic yards or more of material (where under the Coastal Act any grading is development).

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Thus, suggested modifications are required that: delete the 150 cubic yard threshold for defining what constitutes grading; state that conversion from grazing to row crops (except for land used for ongoing rotational farming between grazing and crop production) constitutes development because it involves grading and/or is a change in the intensity of use of land or water; and that state, as described below, that all expansion of agricultural uses to areas not having been previously used for agricultural purposes within the past 10 years requires a CDP.⁶

In response to public comments that have been received on this topic, the Commission finds that ongoing legally established agricultural production activities that have been part of a regular pattern of agricultural practices that has not been discontinued (such as ongoing rotational grazing and crop farming) does not constitute a change in intensity of use but is a recognized agricultural practice that helps to further productive use of the land. Therefore, to the extent the rotational crop farming or grazing has been part of a regular pattern of agricultural practices, it is not a change in intensity of use of the land despite the fact that the grazing and crop growing are rotationally occurring on different plots of land. Therefore, ongoing agricultural activities are defined to include an established pattern of agricultural production activities such as ongoing rotational grazing and crop farming.

Further, in recognition of the fact that agricultural activities, including cattle grazing, have historically been occurring on properties in Marin for decades, the Commission ascribes a presumption that on-going agricultural activities that have not been discontinued for more than the previous 10 years remain on-going. In addition, if an agricultural activity has been discontinued for more than the previous 10 years, the permit issuing authority may allow an applicant to overcome the presumption that the agricultural production activity is no longer ongoing if the applicant demonstrates his or her ongoing intention to reinstate the agricultural production activity based on the history of agricultural production on the property, the long-term investment in the agricultural production activity on the property, and the existence of infrastructure to support the agricultural production activity.

Thus, as recommended to be modified by the Commission, ongoing agricultural activities is defined as existing legally established agricultural production activities, including all ongoing grading and routine agricultural cultivation practices (e.g., plowing, tilling, planting, harvesting, seeding, etc.), which have not been expanded into never before used areas and have not been discontinued for more than the previous 10 years. Ongoing agricultural production activities that have been part of a regular pattern of agricultural practices that has not been discontinued for the prescribed period (such as ongoing rotational grazing and crop farming) does not constitute a change in intensity of use. Conversion of grazing to crop production or any other new or expanded activity involving grading or a change in the intensity of use of land or water that has

⁶ In LCP amendment SLO-1-10, approved in August 2012, the Commission approved a 5 year time limit to establish whether the production activity was considered to be ongoing. As explained in the staff report, the San Luis Obispo County Agricultural Commissioner's office determined that a five-year dormancy period was appropriate based on experience that it is uncommon for fields in the County to be left fallow for more than five years, as well as research of other approved or proposed ordinances using a five year period, including in San Diego County and Ventura County. The five-year dormancy period was appropriate because it allows farmers to fallow their fields, but it is not so long that significant changes in habitat or other coastal resource values are expected to occur. In Marin, after discussion with the County and stakeholder groups, while disagreement remained for some, 10 years was generally deemed appropriate since farmers generally would not let their fields lay fallow longer than this time period.

not been part of a regular pattern of agricultural practices or has been discontinued for more than the period of time prescribed above is not an ongoing agricultural production activity but rather constitutes new development requiring a coastal permit consistent with Chapters 22.68 and 22.70, unless such development is categorically excluded by a Coastal Commission-adopted Categorical Exclusion Order.

As indicated above, other public comments regarding permit requirements for agricultural activities requested that permits not be required for specified amounts of grading or terracing. However, because the Coastal Act does not prescribe what is and is not development based on quantitative limits, such a request must instead be processed by the County as a Categorical Exclusion Order. Once approved, Categorical Exclusion Orders exclude from permit requirements specified types of development in specified geographic areas. The County has already received approval of several Categorical Exclusion Orders that exclude specified types of development from otherwise applicable permit requirements.

Even if an agricultural development is found to require a CDP, the LCP offers many tools to streamline the permitting process for the agricultural community. For example, the Commission issued the County Categorical Exclusion Orders E-81-2 and E-81-6, which exclude from coastal permit requirements agriculturally-related development, including production activities, barns and other necessary buildings, fencing, storage tanks and water distribution lines, and water impoundment projects. These exclusions apply to parcels zoned C-APZ at the time of the exclusion orders' adoption and only if those parcels are outside of the area between the sea and the first public road or half-mile inland, whichever is less. Also, such excludable development must still be found consistent with the zoning in effect at the time of the orders' adoption (meaning the existing certified LCP). As such, development must still meet the existing LCP's requirements that development be clustered on no more than five percent of the gross acreage, to the extent feasible; be outside of wetlands, streams and their 100-foot buffers; and have adequate water supply, among other requirements. In addition, intergenerational homes cannot be excluded because they were not an allowed use on C-APZ lands when the Orders were adopted. Even with these caveats, much of the agricultural development within the County's coastal zone can be excluded from coastal permit requirements per the Exclusion Orders.

Additionally, even if an agricultural development is found to require a CDP, the IP as proposed to be modified offers new tools to streamline the permitting process. These streamlined procedures include the County's use of the de minimis waiver of CDP requirements process for non-appealable development (IP Section 22.68.070), and public hearing waivers for appealable development (IP Section 22.70.030(B)(5)). With respect to de minimis waivers, as suggested to be modified, any non-appealable development, if it is found to be consistent with the LCP and does not have potential for any adverse effect on coastal resources, can have CDP requirements waived by the Board of Supervisors. The proposed waiver must be noticed to the Executive Director of the Commission, and he/she has the right to request that waiver not be issued and that a regular CDP be obtained, consistent with the process for de minimis waivers specified in the Commissions regulations. The new IP allowance for a de minimis waiver process stems from Coastal Act Section 30624.7, while the new IP allowance for a waiver of a public hearing for appealable development stems from Section 30624.9. Since all appealable development is required to have one public hearing (and therefore cannot be waived), 30624.9 allows for certain

types of development, defined as “minor” development, to be allowed to waive the public hearing requirement if notice is provided and nobody specifically requests a hearing. Minor development must still be found consistent with the certified LCP, cannot require any other discretionary approval, and cannot have any adverse effect on coastal resources or public access to and along the coast.

Thus, the LCP as modified sets up a structure in which, in terms of agricultural development, a CDP is not required for ongoing agricultural activities, many new agricultural activities may be excluded from a CDP (including production and grading activities and other structural development if it meets specific criteria), and, even if a CDP is required, it can be waived (including if it is a principally permitted and non-appealable use) or deemed minor. As such, as modified, the LCP provides numerous tools to minimize permitting requirements for the County’s agricultural community and maximize public participation in the protection of the agricultural economy, all consistent with the Coastal Act and the conditionally certified LUP.

2. HABITAT RESOURCES

A. Applicable Land Use Plan Policies

C-BIO-1 Environmentally Sensitive Habitat Areas (ESHAs).

- 1. An environmentally sensitive habitat area (ESHA) is any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*
- 2. ESHA consists of three general categories: wetlands, streams and riparian vegetation, and terrestrial ESHAs. Terrestrial ESHA includes non-aquatic habitats that support rare and endangered species; coastal dunes as referenced in C-BIO-7 (Coastal Dunes); roosting and nesting habitats as referenced in C-BIO-10 (Roosting and Nesting Habitats); and riparian vegetation that is not associated with a perennial or intermittent stream. The ESHA policies of C-BIO-2 (ESHA Protection) and C-BIO-3 (ESHA Buffers) apply to all categories of ESHA, except where modified by the more specific policies of the LCP.*

C-BIO-2 ESHA Protection.

- 1. Protect ESHAs against disruption of habitat values, and only allow uses within those areas that are dependent on those resources or otherwise specifically provided in C-BIO-14 (Wetlands), C-BIO-15 (Diking, Filling, Draining and Dredging) or C-BIO-24 (Coastal Streams and Riparian Vegetation). Disruption of habitat values includes when the physical habitat is significantly altered or when species diversity or the abundance or viability of species populations is reduced. The type of proposed development, the particulars of its design, and its location in relation to the habitat area, will affect the determination of disruption. ...*

...

4. *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. 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 including precise required setbacks, provide a site restoration program where necessary, and provide other information, analysis and modifications appropriate to protect the resource.*

C-BIO-3 ESHA Buffers.

1. *In areas adjacent to ESHAs and parks and recreation areas, site and design development to prevent impacts that would significantly degrade those areas, and to be compatible with the continued viability of those habitat and recreation areas.*
2. *Provide buffers for wetlands, streams and riparian vegetation in accordance with C-BIO-19 and C-BIO-24, respectively.*
3. *Establish buffers for terrestrial ESHA to provide separation from development impacts. Maintain such buffers in a natural condition, allowing only those uses that will not significantly degrade the habitat. Buffers for terrestrial ESHA shall be 50feet, a width that may be adjusted by the County as appropriate to protect the habitat value of the resource, but in no case shall be less than 25 feet. Such adjustment shall be made on the basis of a biological site assessment supported by evidence that includes but is not limited to:*
 - a. *Sensitivity of the ESHA to disturbance;*
 - b. *Habitat requirements of the ESHA, including the migratory patterns of affected species and tendency to return each season to the same nest site or breeding colony;*
 - c. *Topography of the site;*
 - d. *Movement of stormwater;*
 - e. *Permeability of the soils and depth to water table;*
 - f. *Vegetation present;*
 - g. *Unique site conditions;*
 - h. *Whether vegetative, natural topographic, or built features (e.g., roads, structures) provide a physical barrier between the proposed development and the ESHA; and*
 - i. *The likelihood of increased human activity and disturbance resulting from the project relative to existing development.*

C-BIO-15 Diking, Filling, Draining and Dredging. *Diking, filling, draining and dredging of coastal waters can have significant adverse impacts on water quality, marine habitats and organisms, and scenic features. Limit strictly the diking, filling, and dredging of open coastal waters, wetlands, and estuaries to the following purposes:*

1. *New or expanded commercial fishing facilities.*

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2. *Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
3. *Incidental public service purposes, including burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
4. *Mineral extraction, including sand for restoring beaches, except in ESHAs.*
5. *Restoration purposes.*
6. *Nature study, aquaculture, or similar resource-dependent activities.*
7. *Excluding wetlands, new or expanded boating facilities and the placement of structural pilings for public recreation piers that provide public access and recreational opportunities may be permitted.*
8. *In the Esteros Americano and de San Antonio, limit any alterations to those for the purposes of scientific study and restoration.*

C-BIO-19 Wetland Buffers. *Consistent with Policy C-BIO-3.1 (ESHA Buffers), maintain a buffer area, a minimum of 100 feet in width, in a natural condition along the periphery of all wetlands. A wider buffer may be required based on the results of a site assessment, that evidences that a buffer greater than 100 feet in width is necessary to protect wetland resources from the impacts of the proposed development, including construction and post-construction impacts. No development shall be permitted within the wetland buffer, unless such development is authorized by C-BIO-2 (ESHA Protection), C-BIO-14 (Wetlands), C-BIO-15 (Diking, Filling, Draining and Dredging), or C-BIO-20 (Wetland Buffer Adjustments).*

C-BIO-20 Wetland Buffer Adjustments and Exceptions.

1. *A buffer adjustment to less than 100 feet may be considered only if it conforms with zoning and:*
 - a. *It is proposed on a legal lot of record located entirely within the buffer; or*
 - b. *It is demonstrated that permitted development cannot be feasibly accommodated entirely outside the required buffer; or*
 - c. *It is demonstrated that the permitted development outside the buffer would have greater impact on the wetland and the continuance of its habitat than development within the buffer; or*
 - d. *The wetland was constructed out of dry land for the treatment, conveyance or storage of water, its construction was authorized by a coastal permit (or pre-dated coastal permit requirements), it has no habitat value, and it does not affect natural wetlands.*
2. *A buffer adjustment may be granted only if supported by the findings of a site assessment which demonstrate that the adjusted buffer, in combination with incorporated siting, design or other mitigation measures, will prevent impacts that significantly degrade the wetland and will be compatible with the continuance of the wetland ESHA.*

3. *A Coastal Permit authorizing a buffer adjustment shall require measures that create a net environmental improvement over existing conditions, in addition to what is otherwise required by minimum applicable site development standards. Such measures shall be commensurate with the nature and scope of the project and shall be determined at the site level, supported by the findings of a site assessment or other technical document. Work required in accordance with this Policy shall be completed prior to occupancy. Appropriate measures may include but are not limited to:*
 - a. *Retrofitting existing improvements or implementing new measures to reduce the rate or volume of stormwater run-off and improve the quality of stormwater run-off (e.g., use of permeable “hardscape” materials and landscape or site features designed to capture, absorb and filter stormwater; etc.);*
 - b. *Elimination of on-site invasive species;*
 - c. *Increasing native vegetation cover (e.g., expand continuous vegetation cover; reduce turf areas: provide native groundcover, shrubs and trees; etc.);*
 - d. *Reduction in water consumption for irrigation (e.g., use of drought-tolerant landscaping or high efficiency irrigation systems, etc.); and*
 - e. *Other measures that reduce overall similar site-related environmental impacts.*
4. *The buffer shall not be adjusted to a distance of less than 50 feet in width from the edge of the wetland.*

C-BIO-24 Coastal Streams and Riparian Vegetation.

1. *Stream alterations. Limit channelizations, diversions, dams, or similar substantial alterations of coastal streams to the following purposes:*
 - a. *Necessary water supply projects where no other less environmentally damaging method of water supply is feasible;*
 - b. *Flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; or*
 - c. *Developments where the primary function is the improvement of fish and wildlife habitat.*

...

C-BIO-“TBD” Coastal Stream and Riparian Vegetation Buffers. *Consistent with Policy C-BIO-3.1 (ESHA Buffers), establish buffers to protect streams from the impacts of adjacent uses including development impacts from construction and post-construction activities, and maintain such buffers in a natural condition. The buffer shall be the wider of the following on both sides of the stream: (a) the area 50 feet landward from the outer edge of the riparian vegetation, or (b) the area 100 feet landward from the top of the stream banks, or (c) as recommended by the biological site assessment per C-BIO-2. No development shall be permitted in the stream or riparian vegetation buffer unless such development is authorized by C-BIO-2 (ESHA Protection), C-BIO-24 (Coastal Streams and Riparian Vegetation) or C-BIO-25 (Stream and Riparian Buffer Adjustments).*

C-BIO-25 Stream Buffer Adjustments and Exceptions.

- 1. A buffer adjustment to less than that required by C-BIO-TBD may be considered only if it conforms with zoning and:*
 - a. It is proposed on a legal lot of record located entirely within the buffer; or*
 - b. It is demonstrated that permitted development cannot be feasibly accommodated entirely outside the required buffer; or*
 - c. It is demonstrated that the permitted development outside the buffer would have greater impact on the stream or riparian ESHA and the continuance of its habitat than development within the buffer.*
- 2. A buffer adjustment may be granted only if supported by the findings of a site assessment which demonstrate that the adjusted buffer, in combination with incorporated siting, design or other mitigation measures, will prevent impacts that significantly degrade the stream or riparian vegetation, and will be compatible with the continuance of the stream/riparian ESHA.*
- 3. A Coastal Permit authorizing a buffer adjustment shall require measures that create a net environmental improvement over existing conditions, in addition to what is otherwise required by minimum applicable site development standards. Such measures shall be commensurate with the nature and scope of the project and shall be determined at the site level, supported by the findings of a site assessment or other technical document. Work required in accordance with this Policy shall be completed prior to occupancy. Appropriate measures may include but are not limited to:*
 - a. Retrofitting existing improvements or implementing new measures to reduce the rate or volume of stormwater run-off and improve the quality of stormwater run-off (e.g., permeable “hardscape” materials and landscape or site features designed to capture, absorb and filter stormwater);*
 - b. Elimination of on-site invasive species;*
 - c. Increasing native vegetation cover (e.g., expand continuous riparian vegetation cover; reduce turf areas; provide native groundcover, shrubs and trees; etc.);*
 - d. Improvement of streambank or in-stream conditions (e.g., remove hard_bank armoring, slope back streambanks, create inset floodplains, install large woody debris structures, etc.), in order to restore habitat and more natural stream conditions;*
 - e. Reduction in water consumption for irrigation (e.g., use of drought-tolerant landscaping or high efficiency irrigation systems, etc.);*
 - f. Other measures that reduce overall similar site-related environmental impacts.*

4. *The buffer shall not be adjusted to a distance of less than 50 feet in width from the edge of the stream/riparian ESHA.*

B. LUP Background

The Background section of the Land Use Plan's Biological Resources chapter describes the natural habitats and environment of the Marin County coastal zone as containing a broad range of estuarine and marine environments, tidal marshes, freshwater wetlands, stream corridors, upland forests, chaparral, grasslands, dunes, and beaches. These sensitive biological resources are easily disturbed and support communities of rare plants and protected species of fish and wildlife such as Western snowy plover (*Charadrius alexandrinusnivosus*), Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*), California red-legged frog (*Rana draytonii*), and Central California coast steelhead (*Oncorhynchus mykiss*). Bolinas Lagoon and Tomales Bay are part of a larger, relatively undisturbed complex of wetlands along the Marin/Sonoma coast that includes Drakes and Limantour Esteros, Abbotts Lagoon, Estero Americano, Estero de San Antonio, and Bodega Harbor. Tomales Bay, Bolinas Lagoon, and the waters along much of the County's ocean shoreline are also part of the Gulf of the Farallones National Marine Sanctuary. The area is within the Pacific Flyway and supports approximately 20,000 shorebirds, seabirds, and waterbirds both seasonally and year-round. Subtidal areas and extensive mudflats support diverse populations of invertebrates and provide nursery and feeding habitat for resident and migratory fish, while steelhead and coho salmon access streams in the watershed. In Tomales Bay, eelgrass beds occur within the shallow waters at the northern end of the Bay that are critical for particular species of migratory birds, and for fish species such as Pacific herring. The rocky points, intertidal areas, and shoreline substrate in Tomales Bay provide habitat for many distinct invertebrate communities. The wetlands areas in Tomales Bay also serve as corridors to valuable spawning nurseries for the Coho salmon and Steelhead. Estero Americano and Estero de San Antonio are "seasonal estuaries" and their unique morphology result in a fjord-like quality which is not found in other California wetlands and results in a wide variety of species diversity and habitats. The coastal zone also includes unique terrestrial habitats such as serpentine grasslands, chaparral habitat that contain endemic plants such as Mount Tamalpais Manzanita (*Arcostaphylos hookeri Montana*), and coastal terrace prairie grasslands.

As listed above, the LUP includes a detailed set of policies that define ESHA, specify the uses allowed within it, specify the required buffers around the ESHA and the allowed uses within those buffers, and then clearly identifies the process for obtaining a reduction in standard buffer width. The LUP protects the County's significant natural habitats primarily through the designation and protection of ESHA. Policy C-BIO-1 defines three types of ESHA: wetlands, streams and riparian vegetation, and terrestrial. Terrestrial ESHA is defined as those habitats that support rare and endangered species; coastal dunes; roosting and nesting habitat; and riparian vegetation not associated with a perennial or intermittent stream. Allowable uses within the three types of ESHA mirror those allowed in the Coastal Act. For terrestrial ESHA, as specified in Policy C-BIO-2: those uses that are resource dependent; within wetlands, as specified in Policies C-BIO-14 and -15: commercial fishing facilities, incidental public service uses, mineral extraction, restoration, aquaculture, and ongoing agriculture; and, within streams and riparian vegetation, as specified in Policy C-BIO-24: necessary water supply projects, flood control projects, and fish and wildlife improvement projects.

Furthermore, the LUP requires buffers surrounding such ESHA, a minimum of 100 feet for

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streams and wetlands and 50 feet for terrestrial ESHA. Policies C-BIO-3, -14, and -15 specify the allowed uses within the buffers for the three types of ESHA: only those uses otherwise allowed within the ESHA itself for wetlands and streams, and uses that will not significantly degrade the habitat within terrestrial habitat buffers. Policies C-BIO-3, -20, and -25 allow reductions to the required buffer widths to an absolute minimum of 50 feet for wetlands and stream and 25 feet for terrestrial ESHA. Any allowed reduction must be for a use that otherwise conforms with zoning and is either proposed on a legal lot located entirely within the buffer, when the development cannot be accommodated entirely outside the required buffer, when the development would have more impact on the ESHA outside the buffer than within, or, for wetlands, when the wetland was created to treat stormwater (such as a filtration basin). A buffer adjustment may only be allowed when supported by findings of a biological site assessment that demonstrates that the adjusted buffer, in combination with siting and design measures, will prevent any significant impact to the ESHA. Finally, any allowed buffer reduction must also require measures that create a net environmental improvement over existing conditions. Such an improvement, including additional stormwater measures, eradication of invasive species, and reduction in water use, must be provided in addition to other mitigation measures that would be otherwise required of the project.

Finally, the LUP requires new development proposals within or adjacent to ESHA to prepare a site-specific biological assessment. Per Policy C-BIO-3, the assessment is to identify the extent of ESHA, document any site constraints and sensitive biological resources, recommend precise buffer widths to protect the habitat, and recommend appropriate restoration/mitigation (generally 2:1 for on-site mitigation, 3:1 off-site, or 4:1 in-lieu fee). As stated above, the site assessment is also required for any project that seeks to reduce the width of the required ESHA buffer.

Thus, the LUP's Biological Resources chapter includes a clear, comprehensive and appropriate set of policies to meet the goal of protecting, maintaining, enhancing, and restoring coastal streams, wetlands, and ESHA.

C. Proposed Implementation Plan

The proposed IP implements the aforementioned LUP policies primarily through Chapter 22.64.050 (Biological Resources). Section 22.64.050(A) describes the submittal requirements applicable for proposed development, including the process by which the required biological resource assessments are to be undertaken, the factors to be studied in order to determine appropriate ESHA buffer widths, required habitat mitigation for development allowed within ESHA, and the requirements for restoration and monitoring plans. Specifically, this IP section requires the Marin County Community Development Agency to conduct an initial site assessment screening of all new development applications, using the LCP's resource maps, past coastal permit actions, site inspections, and other necessary resources to determine the potential presence of ESHA. Should this initial study reveal the potential presence of ESHA within 100 feet of the proposed project site, then a biological site assessment shall be required. Per subsection (b), the assessment is to be prepared by a qualified biologist hired by the County and paid for by the applicant, confirming both the existence and extent of ESHA, and recommending appropriate siting and design measures, buffer widths, and mitigation measures in order to protect the resource. Section 22.64.050(B) lists the required biological resources standards that development must meet. Consistent with the general construct of the IP, the listed standards cross-reference the applicable LUP policy. For example, Section 22.64.050(B)(1) implements the

LUP's ESHA protection policies by stating that "the resource values of ESHAs shall be protected by limiting development per Land Use Policies C-BIO-1, C-BIO-2, and C-BIO-3." As discussed above, these three LUP policies describe in detail the types of ESHA, the uses allowed within them, and required buffers.

D. Analysis

In general, the proposed IP submitted by the County for Commission consideration implements the LUP's required biological resource protection standards and offers additional details on the CDP submittal requirements necessary to ensure such sensitive habitat protection. As discussed above, Section 22.64.050(B) cross-references corresponding LUP policies, thereby ensuring that the LUP's detailed provisions for defining the different types of ESHA, listing the allowable uses within them, and noting their required buffers, are appropriately implemented. Furthermore, Section 22.64.050(A)'s listing of the required CDP submittal materials describes the necessary steps and process the County must employ in order to determine when a project needs a biological site assessment, as well as a listing of the required parameters the assessment must analyze in order to determine whether ESHA is protected. For example, while LUP Policy C-BIO-2 states that a biological site assessment is required, IP Section 22.64.050(A)(1) implements the policy by identifying the process by which the assessment is to be performed, including describing what resources the County is to review when assessing the initial project submittal, stating that the assessment is required when the County's initial screening review shows that ESHA may be located within 100 feet of the project location, and then listing the required parameters for the assessment (including that it may only be prepared by a qualified biologist that the County, not the applicant, selects).

In addition to detailing the site assessment process and parameters, the IP also details the necessary steps for habitat mitigation and restoration, when it is allowed or required otherwise. Specifically, Section 22.64.050(A)(1)(d) requires mitigation for any proposed new development that impacts ESHA at the minimum ratio of 2:1 on-site, 3:1 off-site, and 4:1 in-lieu fee, or as determined by the findings of the required site assessment. This IP section also describes how to measure the acreage of ESHA potentially being disturbed, stating that it will be measured based on the approved development area, road/driveway area, and any required fuel modification clearance. Thus, the IP ensures that all areas on the property possibly impacted by a proposed project, and not just a proposed project's specific footprint, are appropriately and adequately accounted for when the County permits new development. Additionally, the IP ensures the success of any required mitigation by requiring a Restoration and Monitoring Plan. Section 22.64.050(A)(3) lists its requirements, including a clear description of the ESHA habitat restoration goals, quantitative description of the chosen restoration site, designation of a qualified restoration biologist to be the restoration manager, and preparation of a Final Monitoring Plan that specifies performance criteria for determining whether the restoration has successfully been implemented. Therefore, in essence, the IP lists the required resource protection standards in Section 22.64.050(B), and includes the necessary details on how to accomplish those requirements via Section 22.64.050(A)'s listing of permit requirements.

However, certain modifications are required in order for this section of the IP to be fully LUP consistent. First, in terms of Section 22.64.050(A)(1)(d)'s requirements for habitat mitigation, the standard as written by the County states that development shall be sited and designed to avoid impacts to ESHA, but then goes on to state that if there is no feasible alternative that can

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eliminate significant impacts to ESHA, then the alternative that results in the least impacts to ESHA shall be selected. As written, this standard could be interpreted to mean that any development could be allowed within ESHA so long as the County determines that it is the least environmentally damaging with respect to ESHA impacts. Allowing potentially any type of new development within ESHA is inconsistent with LUP Policy C-BIO-2, which specifically states that the only allowed uses to be sited within ESHA are those that are resource-dependent, or, for wetlands and streams, those uses allowed in Policies C-BIO-14, -15, and -24, respectively. Therefore, a modification is required in Section 22.64.050(A)(1)(d) to state that the only allowed uses to be considered for siting within ESHA, wetlands, and streams are those specifically identified to be allowable within ESHA per applicable LUP policies. Mitigating for ESHA habitat loss/adverse impacts is only allowed as a mitigation strategy for otherwise permissible uses specifically identified in the LUP when there are no feasible alternatives, including the no project alternative, that would avoid ESHA impacts. A similar modification is also required in Section 22.64.050(B)(11), which clarifies that new development proposed within coastal streams and riparian vegetation is only permitted for the uses identified in LUP Policy C-BIO-24, and not for other types of proposed uses. These modifications make clear that any new development proposed to be sited within ESHA, and the mitigation standards required for it, is only for specifically allowed land uses, and not just for all development, consistent with the LUP.

Other modifications are minor in nature and simply add/delete terms for clarity purposes or fix typographical errors, including in Sections 22.64.050(B)(6) and (7), which delete cross-references to LUP Policies C-BIO-11 and -12 since those policies no longer exist. Public comments have asserted that the IP should narrow the list of uses allowed a reduction in buffers, suggesting that only uses designated as the principally permitted use specified for the particular zoning district be allowed buffer reductions. However, this suggestion would not be consistent with LUP Policies C-BIO-3, C-BIO-20, and C-BIO-25, which specify in detail the uses allowed buffer reductions for ESHA, wetlands, and streams, respectively. These policies state that any use is allowed a buffer reduction so long as it is consistent with zoning, as well as additional requirements for wetlands and streams. Thus, the LUP already includes a detailed process for identifying appropriate buffers, and limiting buffer reductions to only the principally permitted use in the zoning district would be inconsistent with the LUP criteria. Thus, no suggested modification is made in this respect. However, a modification is added, as requested by public comment, to further clarify standards that buffer reductions must meet. As such, modifications are added to Section 22.64.050(A)(1)(c) to state that, for buffer reductions, the applicant has provided clear and convincing findings of the need for the reduction, the reduction allowed is the absolute minimum necessary, and the reduction will prevent impacts that degrade the ESHA and will be compatible with the continuance of the ESHA. As modified, the Implementation Plan includes a clear set of policies and standards that defines ESHA, specifies the allowable uses within it, required buffers, and the habitat mitigation requirements. The IP is thus adequate to carry out the LUP.

3. COASTAL HAZARDS

A. Applicable Land Use Plan Policies

C-EH-2 Avoidance of Geologic and Other Hazards. *Require applicants for development in areas potentially subject to geologic or other hazards (including Alquist-Priolo earthquake hazards zones, and areas subject to tsunami runup, landslides, liquefaction, episodic and long-term shoreline retreat (including beach or bluff erosion), high seas, ocean waves, storms, tidal scour, flooding, steep slopes averaging greater than 35%, unstable slopes regardless of steepness, and flood hazard areas, including those areas potentially inundated by accelerated sea level rise, to demonstrate that:*

- 1. The area of construction is stable for development for a minimum of 100 years,*
- 2. The development will not create a hazard or diminish the stability of the area, and*
- 3. For shoreline and/or coastal bluff development, see Policy C-EH-5.*

The County's hazards maps can be used as a resource for identification of hazard areas; however, absence of mapping alone cannot be considered absence of hazard and local site conditions must be examined using the best available science.

C-EH-3 Applicant's Assumption of Risk. *As a condition of coastal permit approval for development in hazardous areas, require the applicant to record a document exempting the County from liability for any personal or property damage caused by ~~natural~~ geologic or other hazards on such properties and acknowledging that future shoreline protective devices to protect structures authorized by such coastal permit are prohibited.*

C-EH-5 New Shoreline and Blufftop Development.

- A. **Blufftop Development.** *Ensure that new blufftop development, including coastal redevelopment (see below) and additions to existing structures, is safe from shoreline/bluff retreat and other coastal hazards without a reliance on shoreline protective devices. Except as provided for by Policies C-EH-7, C-EH-15, C-EH-16, and C-EH-19, new development shall be set back from the shoreline and bluff edge a sufficient distance to ensure its stability and structural integrity for a minimum of 100 years and to eliminate the need for shoreline protective devices. A coastal hazards analysis shall evaluate the effect of geologic and other hazards at the site to ensure its stability and structural integrity for a minimum of 100 years. The coastal hazards analysis shall include a quantitative slope stability analysis demonstrating a minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer). Safety and stability must be demonstrated for the predicted position of the shoreline/bluff following shoreline/bluff recession over at least 100 years. The predicted shoreline/bluff position shall be evaluated considering not only historical shoreline and bluff retreat data, but also acceleration of shoreline and bluff retreat due to continued and accelerated sea level rise, and other climate impacts according to best available science. The effect of any existing shoreline protective devices shall not be factored into the required stability analysis.*

- B. *Shoreline Development.*** *New shoreline development (including new development on vacant/undeveloped lots, additions to existing structures, and coastal redevelopment (see below)) shall be set back a sufficient distance from the shoreline to ensure stability and structural integrity for a minimum of 100 years without the need for shoreline protective devices. For coastal redevelopment, if there is insufficient space on a property to feasibly meet the setback requirements, then such development may meet the minimum 100-year stability and structural integrity requirement through setting back as far as feasible in tandem with the use of caisson/pier foundations and elevation (including if elevation of the structure is necessary to meet Federal Emergency Management Agency (FEMA) flood requirements) but no other type of shoreline protective device is allowed. Any approval for new shoreline development shall be accompanied by conditions necessary to achieve compliance with this policy (e.g., appropriate provisions to ensure that all permitted development is relocated and/or removed before shoreline protection (other than caisson/pier foundations and elevation where allowed for redevelopment) is needed). A coastal hazards analysis shall evaluate the effect of geologic and other hazards to ensure stability and structural integrity for the minimum 100 year period, and such analysis shall not factor in the presence of any existing shoreline protective devices. The coastal hazards analysis shall also evaluate the effect of the project over time on coastal resources (including in terms of protecting public access, shoreline dynamics, natural landforms, and public views, including as project impacts continue and/or change over time, including in response to sea-level rise), including in terms of not only the impacts associated with the elevated structure, but also in terms of the effects of related development, such as required ingress/egress to structures and the provision of services (e.g., water, wastewater, etc.). The provisions of this subsection allowing the use of caisson/pier foundations and elevation for shoreline redevelopment in certain circumstances shall apply until April 30, 2017 or until this subsection is amended, whichever occurs first. If a complete LCP amendment to amend this subsection is not submitted as of April 30, 2017 (including where subsequent withdrawal of such LCP amendment will deem it to have not been submitted), then shoreline redevelopment will no longer be allowed to meet minimum 100-year stability and structural integrity requirements through the use of caisson/pier foundations and elevation. The April 30, 2017 deadline may be extended for good cause by the Executive Director of the Coastal Commission.*
- C. *Coastal Redevelopment.*** *Coastal redevelopment must be found consistent with all applicable LCP policies. Coastal redevelopment is development that is located on top of bluffs or at or near the ocean-sand interface and/or at very low lying elevations along the shoreline that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, and/or (3) demolition of an existing bluff home or other principal structure, or portions thereof, which results in:*
- (1) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.*

- (2) *Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LUP; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area, taking into consideration previous additions approved on or after the date of certification of the LUP.*

C-EH-13 Shoreline Protective Devices. *Discourage shoreline protective devices in the Coastal Zone, including encouraging their removal and site restoration where feasible, due to their coastal resource impacts (including visual impacts, obstruction of public access, interference with natural shoreline processes and water circulation, and effects on marine habitats and water quality).*

Allow the construction, reconstruction, expansion, and/or replacement of a shoreline protective device, including revetments, breakwaters, groins, seawalls, bluff retention devices, deep piers/caissons, or other artificial structures for coastal erosion control and hazards protection, only if each of the following criteria is met:

- 1. The shoreline protective device is required to serve a coastal-dependent use or to protect a principal structure, residence, or second residential unit in existence prior to the adoption of the Local Coastal Program (May 13, 1982) or a public beach in danger from erosion.*
- 2. No other non-structural alternative, such as sand replenishment, beach nourishment, or managed retreat is feasible, and the device is the least environmentally damaging feasible alternative.*
- 3. The condition causing the problem is site specific and not attributable to a general erosion trend, or the project reduces the need for a number of individual projects and solves a regional erosion problem.*
- 4. It can be shown that a shoreline protective device will successfully eliminate or mitigate its effects on local shoreline sand supply and that the device will not adversely affect adjacent or other sections of the shoreline.*
- 5. The shoreline protective device will not be located in wetlands or other significant resource or habitat area, and will not cause significant adverse impacts to fish or wildlife.*
- 6. There will be no reduction in public access, use, or enjoyment of the natural shoreline environment, and construction of a shoreline protective device will preserve or provide access to related public recreational lands or facilities.*
- 7. The shoreline protective device will not restrict navigation, mariculture, or other coastal use and will not create a hazard in the area in which it is built.*

8. *For existing shoreline protective devices that are being reconstructed, expanded, and/or replaced, the coastal permit application shall include a re-assessment of the need for the device, the need for any repair or maintenance of the device, and the potential for removal based on changed conditions. The coastal permit application shall at a minimum include an evaluation of: the age and condition of the existing principal structure being protected; changed geologic site conditions including but not limited to changes relative to sea level rise; and impacts to coastal resources, including but not limited to public access and recreation.*
9. *The shoreline protective device shall only be authorized until the time when the existing structure that is protected by such a device: 1) is no longer present; 2) no longer requires armoring; or 3) is redeveloped (i.e. coastal redevelopment pursuant to C-EH-5).*

The permittee is required to submit a coastal permit application to remove the authorized shoreline protective device within six months of a determination that the shoreline protective device is no longer authorized to protect the structure it was designed to protect because the structure is no longer present or no longer requires armoring. In the case of coastal redevelopment, removal of the authorized shoreline protective device shall be required prior to construction of the redeveloped structure.

10. *Shoreline protective devices shall be required to mitigate impacts to shoreline sand supply, public access and recreation, and any other relevant coastal resource impacts in 20-year increments, starting with the building permit completion certification date. Permittees shall apply for a coastal permit amendment prior to expiration of each 20-year mitigation period, proposing mitigation for coastal resource impacts associated with retention of the shoreline protective device beyond the preceding 20-year mitigation period, and such application shall include consideration of alternative feasible mitigation measures in which the permittee can modify the shoreline protective device to lessen its impacts on coastal resources.*
11. *The shoreline protective device shall be regularly monitored by an engineer or engineering geologist familiar and experienced with coastal structures and processes. Monitoring reports to the County and the Coastal Commission shall be required every five years from the date of coastal permit issuance until coastal permit expiration, which shall evaluate whether or not the shoreline protective device is still required to protect the existing structure it was designed to protect.*

C-EH-14 Design Standards for the Construction of Shoreline Protective Devices. *Ensure that the design and construction of any shoreline protective device shall:*

1. *Be sited, designed, and treated to blend in visually with the natural shoreline;*
2. *Respect and integrate into natural landforms to the greatest degree possible;*
3. *Include mitigation measures to offset any impacts on fish and wildlife resources caused by the project;*
4. *Minimize and mitigate for the impairment and interference with shoreline sand supply and the circulation of coastal waters;*

5. *Address the geologic hazards presented by construction in or near Alquist-Priolo earthquake hazard zones;*
6. *Protect, and enhance where feasible, public recreational access as much as possible, including by minimizing the displacement of beach; and*
7. *If necessary, be combined with efforts to control erosion from surface and groundwater flows.*

C-EH-15 Minor Accessory Structures in Hazardous Areas. *Minor accessory structures, which are structures that do not require structural foundations, such as decks, patios, and walkways (and not including structures such as guesthouses, pools, tennis courts, cabanas, and septic systems, etc.) may be allowed within the shoreline/blufftop setback established by C-EH-5 provided they meet all of the following criteria:*

1. *Such accessory structures shall only be allowed if consistent with all other applicable LCP policies.*
2. *Such accessory structures shall be sited and designed to be easily relocatable and/or removable without significant damage to shoreline and/or bluff areas, and shall be sited no closer than 5 feet from the blufftop edge.*
3. *Such accessory structures shall be relocated and/or removed and affected areas restored to natural conditions when threatened by erosion, geologic instability, or other coastal hazards, including as determined by Marin County*
4. *No shoreline protective device will be allowed for the purpose of protecting such accessory structure(s).*

C-EH-25 Existing Development and Fire Safety. *Removal of major vegetation around existing development for fire safety purposes shall only be allowed upon a finding that fuel modification and brush clearance techniques are required in accordance with applicable fire safety regulations and are being carried out in a manner which reduces impacts to the maximum feasible extent. In addition to the foregoing requirements, removal of major vegetation that constitutes ESHA, or is in an ESHA, or is in an ESHA buffer, shall only be allowed for fire safety purposes if there are no other feasible alternatives for achieving compliance with required fire safety regulations and all ESHA and related impacts are mitigated as near as possible to the impact area and in a manner that leads to no net loss of ESHA resource value.*

B. LUP Background

Marin County's coastal zone, and particularly the shoreline interface, is affected by a variety of coastal hazards, including shoreline and bluff retreat and erosion, ocean storms and waves, tsunamis, potential seismic events and liquefaction, and long-term sea level rise, all of which represent hazards for new and existing development. The Marin County coastal zone contains numerous geologic features, including bluffs, steep slopes, and low-lying development subject to flooding, including along Tomales Bay, Stinson Beach, Seadrift, and Bolinas. Significant portions of California's coastline have already been armored with rock revetments, seawalls, or other shoreline protective devices. While Marin's shoreline includes relatively few shoreline

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protective devices as compared with many other coastal communities, shoreline armoring is not absent from the County's coastal zone. Structures within Bolinas and Seadrift in Stinson Beach rely in part on shoreline protective devices to ensure protection against ocean flooding and shoreline retreat. Sea level rise is expected to lead to increased erosion, loss of coastal wetlands, permanent or periodic inundation of low-lying areas, increases in coastal flooding, and salt water intrusion into stormwater systems and aquifers. Structures located along bluffs, including those in Muir Beach and Bolinas, may become susceptible to accelerated erosion, and areas that already flood during high tides, including portions of Stinson Beach, will likely experience an increase in these hazards from accelerated sea level rise. Sea level rise also threatens the integrity of roads and other public infrastructure, such as Highway 1. The LUP recognizes these issues, including providing a background on such hazards in the Environmental Hazards chapter.

New Development

As stated earlier, the LUP requires new development to be safe from geologic or other hazards, defined to include Alquist-Priolo earthquake hazards zones; areas subject to tsunami runup, landslides, liquefaction, episodic and long-term shoreline retreat (including beach or bluff erosion), high seas, ocean waves, storms, tidal scour, and flooding; steep slopes averaging greater than 35%; unstable slopes regardless of steepness; and flood hazard areas, including those areas potentially inundated by accelerated sea level rise. Policy C-EH-2 requires new development to be safe from these hazards for a minimum of 100 years, including requiring findings that the area of construction is stable for development, the development will not create a hazard or diminish the stability of the area, and is sufficiently set back from coastal bluffs and the shoreline so as to ensure stability and structural integrity and not require a shoreline protective device. Policy C-EH-3 requires all development within hazardous areas to, as a condition of coastal permit approval, record a document exempting the County from liability for damage caused by geologic or other hazards, and acknowledging that future shoreline protective devices to protect such structure are prohibited.

Policy C-EH-5 addresses additional requirements and standards that development on bluffs and along the shoreline must meet. All development within these areas must prepare a coastal hazards analysis that evaluates the effect of geologic and other hazards at the site to ensure its stability and structural integrity for a minimum of 100 years, without factoring in any existing or proposed shoreline protective devices. For blufftop development, Policy C-EH-5(A) requires new structures (including additions to existing structures and to coastal redevelopment, as that term is defined) to be set back a sufficient distance from the bluff edge to ensure stability and structural integrity for a minimum of 100 years and to eliminate the need for any shoreline protective device. The bluff setback determination must be evaluated based on bluff retreat data from both historic and future sea level rise, as well as other climate impacts using the best available science.

Shoreline development is similarly required to be set back a sufficient distance so as to not require structural protection. Per C-EH-5(B), new shoreline development, including development on vacant/undeveloped lots, additions to existing structures, and coastal redevelopment, must be setback a sufficient distance from the shoreline to ensure stability and structural integrity for a minimum of 100 years without the need for shoreline protective devices. The required coastal hazards analysis must evaluate the effect of the development over time (taking into account sea level rise) on coastal resources, including impacts to public access, shoreline dynamics, natural

landforms, and public views, and the analysis shall consider the entire structure, including driveways and utilities. Any approval for new shoreline development is required to be accompanied by conditions necessary to ensure that development is safe from hazards and does not need future shoreline protection, including appropriate provisions to ensure that all permitted development is relocated and/or removed before shoreline protection is needed.

Shoreline Protective Devices

Policy C-EH-13 lists the required criteria for allowing shoreline protective devices,⁷ including that the device is required to serve a coastal-dependent use or to protect a public beach, or to protect a principal structure, residence, or second residential unit in existence prior to the adoption of the LCP (May 13, 1982, the date on which CDP-issuing authority was transferred to the County); that sand supply impacts are adequately mitigated; that the condition causing the problem is site specific and not attributable to a general erosion trend or that the device would solve a regional erosion problem; there will be no reduction in public access; and there is a finding that no other non-structural alternative (such as beach nourishment or managed retreat) is feasible. Additionally, Policy C-EH-13(10) requires devices to mitigate impacts to shoreline sand supply, public access and recreation, and any other coastal resource impacts in 20-year increments. Permittees shall be required to apply for a CDP amendment prior to the 20-year impact mitigation period and shall propose additional mitigation associated with retention of the device beyond the initial 20 year period. Policy C-EH-14 lists the required design standards for otherwise allowable devices, including that such devices blend visually with the natural shoreline and respect natural landforms to the greatest degree possible, and that the device mitigate any impacts on fish and wildlife resources, among others.

Existing Development

Finally, the LUP includes a suite of policies addressing existing development currently located in hazardous areas, the improvements and repair/maintenance opportunities that owners of existing development are allowed to undertake, and how such development interfaces with LUP hazards policies. Policy C-EH-5(C) defines coastal redevelopment as development that is located on top of bluffs or along the shoreline that consists of alterations including additions, exterior and/or interior renovations, and/or demolition of an existing structure which results in alteration of 50% or more of its major structural components (including exterior walls, floor and roof structure, and foundation), or a 50% increase in floor area. In addition, coastal redevelopment also includes demolition, renovation, or replacement of less than 50% of a major structural component when the alteration results in cumulative alterations exceeding 50% (i.e., when previous alterations cumulatively add up to 50% or greater of the major structural components). When any of these thresholds are triggered, the entire structure must be found consistent with all applicable LCP policies, including being set back a sufficient distance so as to not require shoreline protective devices (except for the particular, interim allowance for existing shoreline structures to use elevation as a protection strategy in certain circumstances, as discussed below). If the existing structure proposed to be redeveloped has a shoreline device protecting it, Policy C-EH-13(9) requires that the existing protective device be removed within six months of the determination that the device is no longer needed to protect the redeveloped structure.

⁷ The policy defines shoreline protective devices as including revetments, breakwaters, groins, seawalls, bluff retention devices, deep piers/caissons, or other similar such structures used for coastal erosion control and hazards protection.

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At the time of the May 15, 2014 hearing on the submitted LUP, the Commission received comments of concern from residents of the Seadrift and Stinson Beach communities concerning application of LUP Policy C-EH-5 when applied to a shoreline as opposed to a blufftop situation. As a result of those comments, the Commission revised its suggested modification language and adopted a revised LUP Policy C-EH-5 that generally provides for shoreline development to be treated similarly to bluff top development, except that elevation may be considered as a strategy for shoreline redevelopment for a limited period of time. In cases where there is insufficient space on a property to feasibly meet setback requirements, redevelopment would be allowed to meet the minimum 100-year stability and structural requirements by both utilization of setbacks and the use of caisson/pier foundations and elevation (including if elevation is necessary to meet FEMA flood requirements) subject to criteria.

Thus as adopted by the Commission, Policy C-EH-5(B) allows existing shoreline development that is redeveloped, that otherwise must meet all applicable LCP policies, including those that prohibit shoreline protective devices, to use elevation as a mechanism to meet the 100-year structural stability test. Specifically, if there is insufficient space on a property to feasibly meet the setback requirements (e.g., if it is a residential structure on a small, constrained shoreline lot), then the redeveloped structure may use caisson/pier foundations or other elevation strategies to achieve the LCP's hazards requirements. However, this provision applies until April 30, 2017 or until the policy is amended, whichever comes first.

The April 30, 2017 date was chosen, in part, because the County was awarded funding from the Commission's FY2013-2014 LCP grant fund program to evaluate low lying areas and to develop appropriate policies for addressing coastal hazards issues, including in light of sea-level rise for shoreline development. The Commission's grant to the County is meant to culminate in an LCP amendment submittal to the Commission in early 2016. In other words, this upcoming assessment and LCP amendment project is an appropriate vehicle for further identifying relevant issues and developing a more comprehensive response to the particular needs of shoreline structures along Marin's coast, including providing for a local public participation process that can help form the basis for objectives and a vision for this shoreline interface moving forward. The LUP is structured in a manner that allows existing shoreline structures to be elevated in order to meet the LUP's shoreline policies in the interim under certain circumstances until the County develops a more holistic hazards planning approach via its future LCP amendment.

Thus, the only difference between bluff top and shoreline redevelopment requirements is that the LUP as adopted by the Commission in May 2014 allows shoreline redevelopment to meet hazards requirements through setbacks and the use of caisson/pier foundations and elevation for a limited time, tied to an upcoming LCP grant project which would evaluate such low lying areas and would develop appropriate policies for addressing coastal hazards, including in light of sea-level rise. Thus, such development on shoreline lots may, until April 30, 2017, utilize caisson/pier foundations and elevation after exhausting setback alternatives to the maximum extent feasible.

Since the Commission acted upon the County's LUP in May 2014, additional questions have been raised by the shorefront Seadrift Association property owners regarding the existing permitted 7,400-foot long rip-rap revetment located between actual residences and the sea. On March 16, 1994, the Commission approved CDP A-1-MAR-87-235 subject to conditions,

permitting after-the-fact a rip-rap revetment for the oceanfront property owners in the Seadrift Subdivision. The Commission's approval came after the Commission, along with other parties (State Lands Commission, Federal Department of the Interior, property owners and title companies) settled a litigation dispute regarding public rights to the sandy shore at the Seadrift Subdivision. The settlement provided for a fixed line to determine a public easement for low intensity recreational purposes measured 60 feet from the top of the existing 7,400-foot long rip-rap revetment or 25 feet from the toe of natural sand dunes, and the public would have the right to pass and repass landward of the easement area when the area is covered with water. The Settlement was viewed to be a fair compromise between private and public interests as it pertained to public access and allowed for the eventual CDP action undertaken by the Commission on the 7,400 ft. long riprap revetment.

In its findings, the Commission found that the rip-rap revetment was designed and installed with the express purpose of protecting the existing homes along the ocean side of the Seadrift sandspit, almost all of which were in existence in 1979, and therefore consistent with the shoreline protection policies of the LCP. In recognition of the settlement and the underlying CDP, the IP includes a proposed section acknowledging these facts, and stating that specific IP environmental hazard standards are not intended to override or otherwise preclude compliance with any entitlements that may exist under the Seadrift settlement agreement and Coastal Commission Coastal Permit A-1-MAR-87-235 as amended (through and including Coastal Permit Amendment A-1-MAR-87-235-A) (see Section 22.64.060(B)(1))

Thus, the LUP includes an extensive, detailed, and encompassing policy framework that mirrors many of the suggested policy mechanisms and best practices outlined in the Commission's Draft Sea-Level Rise Policy Guidance. The LUP addresses hazards avoidance in the siting and design of new development, includes parameters for protecting existing development, and defines when existing development must conform with current LUP policies, thereby ensuring that hazards avoidance and protection is an ongoing exercise to ensure not only protection of coastal resources but also protection of the public's health and welfare in addressing and accounting for development and human activity in inherently hazardous areas.

C. Proposed Implementation Plan

The proposed IP implements the aforementioned environmental hazards policies in a similar structure as the Biological Resources section, as previously discussed. IP Section 22.64.060 includes two subsections, one of which lists the application requirements and the other listing the required coastal resource protection standards as they pertain to hazards avoidance. Specifically, Section 22.64.060(B) cross-references the applicable Land Use Plan policy standards that development must meet, including, for example, that "...shoreline protective devices shall only be allowed subject to the criteria contained in Land Use Plan Policy C-EH-13 and the design standards contained in Land Use Plan Policy C-EH-14...." (IP Section 22.64.060(B)(5)). Thus, this IP provision refers back to the LUP policy specific to the permitting of shoreline protective devices, which itself contains the detailed standards that specify the uses that are allowed protection, the point at which such devices must be removed, and mitigation requirements for impacts to public access, among others. Other standards contain additional details with respect to process and/or findings that must be made in order to implement the corresponding LUP policy. For example, LUP Policy C-BIO-4 requires a CDP for the removal or harvesting of major vegetation other than for agricultural purposes. Proposed IP Section 22.64.060(B)(10) then states

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that a CDP application to remove major vegetation must meet the listed criteria, including that the removal does not adversely affect any ESHA, coastal waters, public views, or conflict with a previous CDP's conditions of approval, *and* at least one of a series of other requirements, including that the major vegetation is diseased, is an identified fire hazard, or a public nuisance interfering with public utilities.

In terms of application requirements, Section 22.64.060(A) describes the submittal requirements based upon the location and type of development proposed. Subsection (1) requires the preparation of an Environmental Hazards Report for all development proposed within mapped areas of geological instability and hazards, including earthquake hazard zones, slopes averaging 35% or greater, and flood hazard areas, including those inundated by sea level rise. The purpose of the report is to describe the hazards on site, and recommend siting and design measures so that the development will be safe from the hazard and not require a shoreline protective device during its 100 year economic life. While this report is required for all proposed development within hazardous areas, Subsections (2) and (3) describe the additional requirements for development located on bluffs, including requirements for a geotechnical investigation and drainage plan to determine the retreat rate and appropriate setbacks, as well as analysis on how rainwater and irrigation will affect bluff stability. Finally, subsection (3) requires an engineering report for any work proposed on a shoreline protective device, including revetments, breakwaters, groins, and seawalls. The report is to include an analysis of alternatives to structural protection, including no action, beach nourishment, and relocation, as well as information needs such as the amount of beach that will be covered, total lineal feet of the device, and provisions for future maintenance.

D. Analysis

Consistent with other sections of the IP and its general construct overall, the proposed IP generally implements the LUP's coastal hazards policies. The IP requires adherence to the LUP's policies, which themselves are very detailed in terms of defining the types of coastal hazards and the required parameters that development must meet in order to achieve the LUP's defined performance standard of 100 year stability and safety without shoreline protective devices. However, because the proposed IP implements the pre-modified LUP, certain IP standards must be modified to reflect those changes. Furthermore, while the proposed IP includes some specificity with respect to process, including application requirements, required reports and studies, and definition of terms, there remains uncertainty about how LUP policies and requirements would be appropriately implemented. For example, public comments have asserted that it remains unclear what types of proposed projects would be required to prepare an Environmental Hazards Report and/or a Coastal Hazards Analysis, including a lack of specificity with respect to what criteria would be used to ascertain whether a proposed project was located in an area subject to hazards, or that certain terms are undefined and/or vague. Therefore, the proposed IP is not consistent with, and is not adequate to carry out, the conditionally certified LUP as approved by the Commission and must be denied as submitted. The IP can be approved only with the following suggested modifications that add in all the newly amended and conditionally certified LUP requirements.

Coastal Hazards Protection Standards and Application Requirements

Many of the suggested modifications are necessary changes to reflect the modification made to the corresponding Land Use Plan policy. For example, 22.64.060(A)(1)'s requirement that an environmental hazards report be prepared only for development within *mapped* hazardous areas

does not reflect the modification made in LUP Policy C-EH-2 that deleted this same mapping requirement and replaced it with language stating that the County's hazards maps can be used as a resource for identification of hazard areas, but that absence of mapping does not in and of itself determine absence of hazard, so local site conditions using the best available science must be analyzed to determine the presence of a hazardous condition. Therefore, the language must be changed in 22.64.060(A)(1) to match the corresponding LUP policy. Similarly, since amended LUP Policy C-EH-5 extended the requirements for the preparation of a coastal hazards analysis for both blufftop development *and* shoreline development, IP Section 22.64.060(A)(1) must also be similarly modified.

However, other modifications are more substantive in that they are necessary refinements to clearly articulate application requirements and process, as well as definitions of certain terms for more clarity. As stated previously, these refinements address comments from the public that stated that it was unclear the process by which the reviewing authority would ascertain whether a proposed development was subject to hazards, and therefore whether the applicant must prepare the required studies and reports in order for the reviewing authority to make the requisite LCP findings. In addition, these revisions address certain definitions of terms so as to reduce ambiguity about particular mandates.

With respect to application requirements, while section 22.64.060(A) describes that a required Environmental Hazards Report is required for all development potentially subject to geologic or other hazards, it does not identify how that latter determination would be made. Thus, a new section is proposed to clearly articulate a process for such evaluation. The process mirrors County-proposed requirements for biological reports per 22.64.050(A)(1) that determine the presence of and protection for ESHA, including an initial site assessment screening of all CDP applications to determine whether the site is potentially subject to hazards over the LUP-required 100 year timeframe. The screening shall include a review of reports, resource maps, aerial photographs, site inspection, and the County's hazards maps, all using the best available science. With respect to sea-level rise, the County-proposed IP describes development potentially inundated by "accelerated" sea level rise as a type of development that must prepare the Environmental Hazards Report. However, as has been highlighted by public comment, it is not exactly clear what "accelerated" means. Therefore, the term accelerated is replaced with the term "future", as the intent is to understand future sea levels and to plan and permit development accordingly. Second, because such sea-level rise studies may evolve in the future, a definition is added that indicates that "best available science" means peer-reviewed and well-documented climate science using empirical and evidence based data that establishes a range of locally-relevant future sea-level rise projections. At this current time, the best available science on sea-level rise in California is the 2012 National Research Council (NRC) Report, *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future* (NRC, 2012). However, any other document that meets the above definition may be used for planning purposes in Marin's coastal zone.

Where the initial site assessment screening indicates that the proposed development is within a blufftop or shoreline parcel, or within 100 feet of an area subject to geologic or other hazards (100 feet is the standard used for biological assessments), then the project is required to prepare an Environmental Hazards Report. The report must be prepared by a qualified registered civil or

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structural engineer or licensed geologist or engineering geologist, and shall describe the extent of potential hazards on the site over the minimum 100 year timeframe. The report shall recommend construction, siting, and other techniques, including drainage techniques or other measures, for example, to minimize hazards and to make the requisite findings: (1) that the development will be sited and designed to assure stability and structural integrity for the development's lifetime and a minimum of 100 years; (2) that the development will be set back a sufficient distance from identified hazard areas so as to not create a hazard or diminish the stability of the area; and (3) that the development will not require the construction of shoreline protective devices during its lifetime, including at the time of the initial development proposal.

While the Environmental Hazards Report applies to development subject to the broad range of LUP-identified hazards (e.g. earthquake zones, steep slopes), for development located on a blufftop or near the shoreline, a Coastal Hazards Analysis is required as well. The areas where such analysis would be required are defined in Land Use Plan Policy C-EH-5: on blufftops⁸, and at or near the ocean-sand interface and/or at very low-lying elevations along the shoreline⁹. Thus, per the LUP and IP's definitions, the analysis would be required of any development proposed to be located on a blufftop, or located at low-lying areas adjacent to and/or near the shoreline. Per section 22.64.060(A)(2), an application for improvements and/or repair and maintenance to an existing structure must clearly identify the major structural components that are being altered, including identifying any previous CDPs authorizing alteration on the subject structure. The purpose of this requirement is to understand and quantify whether the proposed project will alter

⁸ Chapter 22.130 defines the terms as follows, which have been reviewed and/or written by the Commission's Staff Geologist, Dr. Mark Johnsson (Commission suggested modifications shown in strikethrough and underline):

Bluff (coastal). ~~A high bank or bold headland with a broad, precipitous, sometimes rounded cliff face overlooking a plain or body of water. A bluff may consist of a steep cliff face below and a more sloping upper bluff above. Those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and those bluffs the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (2).~~

Bluff Edge (coastal). The upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the bluff is rounded away from the face of the bluff as a result of erosional processes related to the presence of the steep bluff face, the bluff line or edge shall be defined as that point nearest the bluff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the bluff. In a case where there is a steplike feature at the top of the bluff face, the landward edge of the topmost riser shall be taken to be the bluff edge. Bluff edges typically retreat landward due to coastal erosion, landslides, development of gullies, or by grading (cut). In areas where the bluff top or bluff face has been cut or notched by grading, the bluff edge shall be the landwardmost position of either the current or historic bluff edge. In areas where fill has been placed near or over the historic bluff edge, the original natural bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

Blufftop (coastal). The upper surface of a bluff extending inland from the bluff edge.

⁹ **Sea (coastal).** The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding non-estuarine rivers, streams, tributaries, creeks, and flood control and drainage channels. "Sea" does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, including any river, stream, tributary, creek, or flood control or drainage channel flowing directly or indirectly into such area.

Shoreline (coastal). The intersection of the ocean or sea with land; the line delineating the shoreline on National Ocean Service nautical charts and surveys approximates the mean low water line from the time the chart was prepared.

50% or more of its major structural components, including whether the proposed project in conjunction with previous CDP approvals will cumulatively exceed 50%, thereby triggering the LCP's coastal redevelopment provisions that require the structure to be considered an entirely new structure that must meet all applicable LCP policies.

For blufftop development, the Coastal Hazards Analysis must evaluate the site's hazards and ensure the development's stability and structural integrity, and to ensure that the development is safe from bluff retreat, without the need for shoreline protective devices for a minimum of 100 years. For shoreline development, the analysis must demonstrate as well that the proposed development will be set back a sufficient distance from the shoreline to ensure stability and structural integrity for a minimum of 100 years without the need for shoreline protection. Finally, for both blufftop and shoreline development, because of the uncertainty with respect to such hazards determinations, including in light of future sea-level rise and the long time horizon upon which such analysis for hazards avoidance must be made, all development located within these areas must, as part of its Coastal Hazards Analysis, list the required CDP conditions necessary to ensure that the structure is relocated and/or removed (and the site restored) whenever the development is deemed hazardous and unsafe for human occupancy. Per section 22.64.060(A)(2)(d), structural development within blufftop and shoreline areas shall be designed and built in a manner that facilitates removal and/or relocation of the structure, foundation, and all other related development, including utilities and driveways. All CDPs shall include conditions that require the structure to be relocated and/or removed outside of the area subject to coastal hazards if an appropriate government agency determines that any portion of the structure is not to be occupied or used due to any coastal hazards, and such safety concerns cannot be abated by ordinary repair and maintenance. Such relocation requirements have been commonly used by the Commission in recent actions¹⁰ to ensure that development appropriately and proactively addresses "end of life" concerns. Namely, because the Coastal Act, LUP, and IP do not allow new development to rely on shoreline protective devices, the development must either be removed or relocated if it is endangered by coastal hazards earlier than the 100-year setback/safety tests would prescribe. Thus, the removal/restoration plan ensures that endangered structures are not abandoned or otherwise left neglected and blighted to the detriment of coastal resources.

Thus, as modified, IP section 22.64.060(A) specifies in detail the process required of all CDP applications, including identifying whether a site is potentially subject to hazards, the required reports and analysis for the particular hazard type, and removal/restoration conditions for development within areas of particular coastal resource concern: blufftop and shoreline areas. All such analyses are meant to understand the issues facing the particular development at hand, including understanding the broad range of hazards that the proposed development may be subject to, the risks and probabilities associated with those hazards, and recommended ways, including appropriate siting and design techniques, to ensure that the proposed development is built in a manner that minimizes such risks and can meet the LCP's structural stability tests. Good public policy necessitates an understanding of the risks and impacts of building in areas that are determined to be hazardous so as to protect the public's health and welfare, as well as

¹⁰ Including the Monterey Bay Shores Resort in Sand City in CDP No. A-3-SNC-98-114, the Winget residence in Humboldt County in CDP No. 1-12-023, and, in Marin County, the Marshall Tavern in Marshall in CDP No. 2-06-017. These kind of provisions are also similar to recent certified LCP language in this regard (e.g., in the recently certified Seaside LCP).

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protect coastal resources. Thus, a removal and/or relocation condition for all development within shoreline and blufftop parcels is a critical piece of the LCP because it puts the property owner on notice that he/she is building in an inherently hazardous area subject to great uncertainty, and that once the structure is deemed hazardous and no longer safe for occupancy, then the burden is on them, the private property owner, to remove the structure and restore the site to the betterment of the public's coastal resources.

Coastal Redevelopment

LUP Policy C-EH-5(C) requires “coastal redevelopment” to be found consistent with all applicable LCP policies, and states that a structure shall constitute coastal redevelopment (i.e. the structure has been “redeveloped”) when alterations, including additions, renovations, demolition, or replacement, are performed on 50% or more of an existing structure's major structural components¹¹. The policy states that when a proposed development consists of alteration to 50% or more of an existing structure's major structural components, the existing structure meets the coastal redevelopment definition, whereby the *entire* structure must conform to all applicable LCP policies. For example, if half of a structure's wall is demolished and then replaced, the structure is considered redeveloped and the entire structure must be consistent with all LCP policies. Furthermore, while all additions must conform with all applicable LCP policies since additions are considered new development, if the addition necessitates removal of 50% or more of the existing structure (e.g. 50% of the existing structure's walls have been demolished to accommodate the addition/improvement), then the *entire* structure, and not just the addition itself, must conform with all LCP policies. Conversely, if only 25% of the walls are demolished, then only the addition itself must conform since the structure is not considered to be redeveloped. The definition also defines redevelopment to include additions and expansions, or any demolition, renovation or replacement which would result, cumulatively, in alteration or reconstruction of 50 percent or more of an existing structure. Thus, the definition requires that if an applicant submits an application to remodel 30% of the existing structure, then, for example, five years later seeks approval of an application to remodel an additional 30% of the structure, this would constitute redevelopment, triggering the requirement to ensure that the redeveloped structure is sited safely, independent of any shoreline protection. In terms of major structural components, these too are meant to be understood on a cumulative basis within each component (i.e., they are not additive between different components). For example, if an applicant proposed to modify 25% of the exterior walls and 30% of the roof structure, even though together these add up to more than 50%, this would not be considered redevelopment because it relates to two different major structural components. However, if the applicant were to come back for a subsequent CDP to modify an additional 25% of the exterior walls or an additional 20% of the roof structure, the project would be considered redevelopment because it would result in a cumulative alteration to 50% for both of these two major structural component, either of which is sufficient to trigger “redevelopment” and the need for the entire structure to be made consistent with all LCP policies, including with respect to setbacks and armoring.

In order to further define what certain terms of the coastal redevelopment policy mean, including what constitutes the “major structural components” and the work performed on them that would constitute redevelopment, a definition of the term “Coastal Redevelopment” is added to the

¹¹ The definition acknowledges the Commission's regulations which identify the 50% threshold as the point at which the replacement of 50% or more constitutes a new replacement structure (CCR Section 13252(b)).

definitions section of Chapter 22.130. In terms of major structural components, the proposed definition states that work on exterior cladding and framing systems, building structural support, and shear walls/studs constitutes the major structural components of a wall; work on the structural framing system, including trusses, joists, and rafters, and structural support components including beams/joists/rafters constitutes the major structural components of the floor and roof; and structural slabs, piers, caissons, and grade beams may constitute the major structural components of the foundation.

Alterations to these identified elements are calculated as follows:

For exterior walls, when (a) exterior cladding and/or framing systems are altered in a manner that requires removal and/or replacement of 50% or more of the elements of those cladding and framing systems, normally considered as linear length of wall; or (b) reinforcement is needed for any remaining portions of the wall to provide structural support in excess of 50% of existing support elements (e.g. addition of 50% or more of beams, shear walls, or studs whether alone or alongside the existing/retained elements).

For floor or roof structure, when (a) the roof or floor framing is altered in a manner that requires removal and/or replacement of structural elements (e.g. trusses, joists, rafters) supporting 50% or more of the square footage of the roof or floor; or (b) the roof or floor structural framing system requires additional reinforcement to any remaining portions of the roof or floor system to provide structural support (e.g. addition of 50% or more of beams, joists, and/or rafters, etc., whether alone or alongside existing/retained system elements).

For foundation, when 50% or more work is done on any of the following: (a) 50% or more of the horizontal surface area of a slab foundation; (b) 50% or more of the floor area of a structure supported by a pier/post and/or caisson/grade beam foundation; (c) 50% or more of a perimeter foundation.

Additionally, the definition includes a list of components that are *not* structural and which will not be considered in the calculation of coastal redevelopment: roof coverings, replacement of glass windows, doors, chimneys, exterior siding¹², and interior elements such as non-structural walls, insulation, fixtures, and mechanical/electrical/plumbing elements. This definition emanates from recent Commission actions¹³ that have sought to better identify which components of an existing structure constitute its major structural components, and thus work on 50% or greater on those identified elements constitutes an entirely new structure which must be found consistent with all applicable LCP policies, including the provisions that it not lead to shoreline protective devices in the future. Furthermore, in order to address concerns about differing standards between the LCP and those that are required per Federal Emergency Management Agency (FEMA) requirements, which calculates “new development” when the *cost* of a proposed project equals or exceeds 50% of the market value of the structure before the start

¹² Cladding is a type of exterior material applied to a structure to primarily protect its elements from moisture (weather proofing). Siding may also be applied as cladding; however, siding is often applied over cladding on a structure for aesthetic purposes.

¹³ Santa Cruz County LCP Amendment SCO-1-12 Part 1 (Nonconforming Regulations), approved by the Commission in October 2012.

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of construction, the structure also may be considered coastal redevelopment when the alteration meets applicable FEMA requirements. Therefore, the coastal redevelopment policy may be triggered when the development includes work on the major structural components as calculated above (e.g. when 50% of the linear length of a wall is removed), *or* if it meets applicable FEMA thresholds (i.e. based on cost relative to market value).

Thus, as modified, the IP implements corresponding LUP policies that state the required parameters, metrics, and findings that must be made to ensure new development is located outside of hazardous areas, the standards for shoreline protective devices, and the specificity needed to determine when a structure is redeveloped to the point at which it no longer is classified as existing but instead constitutes new development. For all of the above reasons, the IP as modified is thus consistent with and adequate to carry out the conditionally certified LUP.

4. COASTAL DEVELOPMENT PERMITTING PROCEDURES

The Coastal Act defines the activities that constitute development, requires a coastal development permit (CDP) that is consistent with the Coastal Act or the local government's Commission-certified LCP for the activities that meet the definition of development, and then lists the different types of coastal development permits. The Coastal Act's implementing regulations then offer detailed provisions that specify permitting procedures, including required noticing, hearing dates, and appeals procedures. The approved Land Use Plan does not contain detailed policies regarding coastal development permit processing or procedures. The LUP does, however, provide policies and provisions to protect coastal resources, and it includes a section describing coastal permits on Page 6 of the Introduction chapter, stating that coastal permits are the primary tool for implementing the LCP, that most types of development activities require a coastal permit, and that the Marin County Community Development Agency is responsible for implementing the LCP and for reviewing coastal permit applications. The implementation and processing of CDPs for all development (with the exception of development that is exempt or excluded from the CDP requirement) is one of the most critical means of implementing the coastal resource protection policies of the LUP.

The CDP provisions of the IP are divided into two chapters: Chapter 22.68 (Coastal Permit Requirements) and Chapter 22.70 (Coastal Permit Administration). Collectively, these chapters list coastal development permitting procedures, including specifying what activities in the coastal zone constitute development and therefore require a CDP, the different types of CDPs and the types of projects that can be processed according to those CDP types, the applicable noticing and hearing requirements, and the findings required for each permit. In general, the proposed sections are consistent with the Coastal Act and its implementing regulations, and suggested modifications to these sections are solely to add terms or requirements that are explicitly stated in the Act and/or its implementing regulations. These modifications include ensuring that the types of improvements and repair and maintenance activities that ordinarily are excluded from CDP requirements per Coastal Act Section 30610 but are instead specifically listed as requiring a CDP per Sections 13250, 13252, and 13253 of Title 14 of the California Code of Regulations are all accounted for (including, for example, inserting the routine maintenance dredging of 100,000 cubic yards or more within a twelve month period as a type of project that requires a CDP); that an aggrieved person can only appeal a local CDP decision directly to the Coastal Commission if

the County charges an appeal fee (consistent with §13573 of the Commission's regulations); and that emergency CDPs can only authorize the minimum amount of work necessary to address the emergency. However, some modifications are more substantive, as described below.

“Development” versus “Project”

The IP establishes that a Coastal Permit is required for “development” in the Coastal Zone. However, as submitted, the IP cross-references the definition of “development” to Chapter 22.130 (Definitions), which does not exactly track the definition of development provided in Coastal Act Section 30106. A modification is therefore required in Section 22.68.030 to include the complete Coastal Act definition of “development” in this chapter. Additionally, other sections in both Chapters 22.68 and 22.70 reference the term “project,” as opposed to “development,” with reference to coastal permitting requirements. The term project has a specific definition under the California Environmental Quality Act whereas the term development is Coastal Act specific. Several modifications are therefore suggested that substitute the term “development” for “project” throughout these sections.

Noticing of Categorically Excluded and Exempt Development

IP Sections 22.68.040 and 22.68.050 establish when a proposed development may be determined to be categorically excluded or exempt from the requirement for a coastal permit, respectively. However, as submitted, the IP does not provide for any mechanism for noticing of such determination to either the public or the Commission besides “post(ing) on the Agency’ website, and regularly transmit(ing) to the Coastal Commission...”. As proposed, it is not clear the process by which such notices will be distributed to the public and the Commission, including timing and information provided, which is a very important step in ensuring that the Commission and interested stakeholders concur on County exemption and exclusion determinations. Public comments have repeatedly asserted the critical importance of adequate and effective noticing of CDP exclusion and exemption determinations. Section 30006 of the Coastal Act provides that “the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.” A proposed modification is therefore suggested to ensure that the Commission and members of the public are made aware of any determination by the Director as to whether a proposed development can be categorically excluded or exempt from the coastal permitting requirement. Similar to what has been approved in other recent LCPs¹⁴, the modification requires that the County provide notice of all exclusion determinations within five working days to the applicant, the Commission, and any known interested parties. The notice is to include a project description, reasons supporting the exemption/exclusion determination, and the date of the Director’s determination. For exemption determinations, modification requires the County to maintain a list of all exemption determinations, which shall be updated at least weekly and provided for public review at the Community Development Agency’s front counter and webpage, transmitted weekly to the Coastal Commission, and made available upon request otherwise. The list shall include the applicant’s name, project description and location, the reason supporting the exemption determination (including evidentiary information and other materials

¹⁴ Santa Cruz County LCP Amendment No. LCP-3-SCO-13-0228-1 Part A (Regulations Update), approved by the Commission in February 2014.

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(i.e., location maps, site plans, etc.)), the date of the Director's determination for each project, and the procedures for challenging the Director's determination. The list shall identify its posting date, which shall be the date from which challenges are allowed within the next 30 days. Additionally, as discussed subsequently, all exemption and exclusion determinations may be challenged under the IP process specified in Section 22.70.040. Therefore, as modified, the IP ensures that the public and the Commission are appropriately notified of CDP exclusion and exemption determinations, including a process for potential appeal.

Finally, the County's Commission-adopted Categorical Exclusion Orders are listed within LCP Appendix 7. However, because all of the Exclusion Orders state that the specified development in the specified geographic area must be consistent with all terms and conditions of the Categorical Exclusion, and some of the Categorical Exclusions require that development be consistent with the zoning ordinances in effect at the time the Categorical Exclusion Order was adopted, a suggested modification also requires that all local zoning ordinances in effect at the time each Categorical Exclusion Order was adopted also be provided within Attachment 7. As modified, the public will both be able to see the types of the development in the specified geographic areas that may be categorically excluded from CDP requirements, and then be able to review the actual Order itself¹⁵ to understand all terms and conditions of the Orders that development must meet in order for the exclusion to apply to the proposed development.

De Minimis Waivers

Section 22.68.070 of the proposed IP authorizes the Director of the Marin County Community Development Agency to waive the requirements for a CDP when certain criteria and procedural requirements are met. The ability of the County to issue a de minimis waiver stems from Coastal Act Section 30624.7, which allows the Executive Director of the Commission to waive the requirement for a coastal development permit on a project that otherwise would require one if it: involves no potential for any adverse effect, either individually or cumulatively, on coastal resources, and that it is consistent with the policies of Chapter 3 of the Coastal Act. The de minimis waiver process is thus one tool to help local governments streamline certain types of development with no coastal resource impacts that are not otherwise covered by the County's exclusion orders nor the statutory exemptions listed in the Coastal Act and its regulations. The proposed IP requires findings similar to those specified in Coastal Act 30624.7 in order to waive CDP requirements, including that it involves no potential for adverse effects, either individually or cumulatively, on coastal resources; is consistent with the certified Marin County LCP; and is not of a type or in a location where the project would be subject to a Coastal Permit issued by the Coastal Commission. The Director is also to notify the Executive Director of the proposed waiver, and if he/she determines that a waiver should not be issued, the applicant is required to obtain a regular CDP.

However, modifications are required that clearly state that a waiver cannot be issued for a project that is *appealable* to the Coastal Commission (i.e. those projects specified in Coastal Act Section 30603) and not just those that are "subject to a Coastal Permit issued by the Coastal Commission", which may be interpreted to mean projects located within the Commission's retained CDP-issuing jurisdiction (i.e. those specified in Coastal Act Section 30519(b): within

¹⁵ The County's three Categorical Exclusion Orders: E-81-2, E-81-6, and E-82-6; are contained within LCP Appendix 7.

tidelands, submerged lands, public trust lands, etc.). This distinction is critical because applications for appealable development are required to have at least one public hearing (per §13566), unless the hearing may be waived per Coastal Act Section 30624.9. Additionally, while the proposed language requires the Executive Director to be notified of the waiver determination, it does not spell out a process for doing so. Therefore, a modification is required that states that the notification shall be sent to the Executive Director no later than 10 days prior to the required Board of Supervisors hearing. Finally, consistent with 30624.7's requirement that a waiver not be effective until it has been reported to the Coastal Commission (and only issued so long as one-third of the appointed membership does not request a regular CDP), modifications are required to specify that a waiver is not deemed effective until reported to the Board, in which case if two or more Supervisors object, the waiver shall not be issued. Therefore, as modified, the IP includes a process by which the County may streamline the processing of certain types of development by waiving the otherwise required need for a CDP, so long as it meets specific criteria, findings, and noticing requirements, all consistent with Coastal Act Section 30624.7.

Determination and Challenges to Permit Category Determination

Section 22.70.030 sets forth the procedure in which the Director determines the appropriate permit category (including five types: categorically excluded, de minimis, administrative, public hearing, and public hearing waiver) and Section 22.70.040 sets forth the procedures for challenging such determinations to the Coastal Commission. The Coastal Commission appeals process cross-references Section 13569 of the Commission's regulations. As proposed, the list of permit categories is not complete because it does not include exemptions and categorical exclusion determinations. Therefore, modifications to Section 22.70.030 are required to list both exemptions and categorical exclusion determinations as a type of permit category determination made by the Director that is subject to challenge. Additionally, instead of cross-referencing §13569, the regulation governing dispute resolution procedures, a modification lays out this process to challenge the type of permit processing that is utilized in full within IP Section 22.70.040, providing clarifying language which makes clear that all such permit category determinations are subject to the Commission's dispute resolution process, whereby disputes between the Commission's Executive Director and the County regarding permit category and CDP processing are heard before and decided by the Coastal Commission. Therefore, as amended, the IP includes a process by which the County determines in which of six permit categories a proposed development falls, as well as a process by which those determinations can be challenged, consistent with the Coastal Act and its regulations.

Appeals of Coastal Permit Decision

Section 22.70.080 provides that County actions on CDPs (i.e., non-public hearing, public hearing, and public hearing waiver applications) are appealable to the Planning Commission and the Board of Supervisors in accordance with Chapter 22.114. However, Chapter 22.114, which lists the process by which internal appeals of County permit decisions are made, is not part of the proposed IP. Therefore, to eliminate a cross-reference to a non-LCP section, a modification is required that lays out this procedure in full in the IP. The modification's language mirrors that of Chapter 22.114 (including that any aggrieved person affected by the determination or decision can appeal such decision, and that decisions made by the Director or Zoning Administrator may be appealed to the Planning Commission, and Planning Commission decisions appealed to the Board of Supervisors, or an allowance for the Director to bring an appeal directly before the

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Board), except that a suggested modification is required for the insertion of language in Section 22.70.080(A)(5) stating that no fees are required for appeals of CDP decisions and challenges to permit category determinations, thereby allowing maximum public participation in the locals appeals process and eliminating the need for CDP decisions to be appealed directly to the Coastal Commission (as would result under §13573 when a local government charges a fee for appeals). As amended, the IP thus maximizes the public's ability to receive notice of CDP decisions and appeal those decisions locally, and through the Coastal Commission.

Notice of Final Action

Section 13571 of the Commission's regulations states that when a local government takes an action on a coastal development permit, the local government shall send notification of its final action to the Commission by certified mail within seven calendar days from the date of making the decision. The regulations specify the required materials to be included in the notice, including conditions of approval, written findings, and the procedures for appeal of the local decision to the Coastal Commission. IP Section 22.70.090 lists the process for sending the Notice of Final Action on a CDP, mirroring §13571's requirement that within 7 calendar of the final decision the County is to send to the Commission the conditions, findings, and appeal procedures. However, the section as proposed does not adequately implement the regulations' requirements, including by not clearly specifying what materials are to be sent to the Commission identifying the development approved and the County's factual basis for determining its consistency with the LCP. Such information is necessary, particularly for appealable development, in order for the Commission to clearly understand both the development approved and the basis for finding it consistent with the certified LCP. Therefore, a modification is required in IP Section 22.70.090 to include the required details. As modified, the IP describes a clear process by which the County is to send the Commission and interested parties notice of their final CDP decisions and the materials used to support them.

Nonconforming Structures and Uses

The LCP contains one policy for nonconforming uses and structures, Policy C-CD-5, which states that lawfully established uses and structures may be maintained and continued, but cannot be enlarged, intensified, moved to another site, or redeveloped without being brought into conformance with the LCP. The policy is implemented in IP Section 22.64.110(A)(3), which cross-references Chapter 22.112 of the Marin County Municipal Code. This chapter, not part of the proposed IP, addresses nonconforming structures, uses and lots. Therefore, in order to delete the cross-reference and insert these critically important provisions directly into the IP, a new section is added to 22.70, Section 22.70.160: Nonconforming Uses and Structures. The section uses language from the County's own nonconforming ordinance (including that such structures can be repaired and maintained, and that they can be enlarged so long as the addition itself conforms with the LCP) but also includes LCP-specific requirements, including describing allowable development on nonconforming structures located in hazardous locations. Specifically, the modification states that repair and maintenance that replaces 50% of the nonconforming structure, or that constitute redevelopment¹⁶, result in the structure losing its legal nonconforming status and requires the *entire* structure to be brought into compliance with all LCP policies. Thus, this provision ensures consistency with both the definition of coastal

¹⁶ "Redevelopment (coastal)" has been added to the definitions section in Chapter 22.130, and mirrors the definition of "Redevelopment, Coastal (coastal)" as used for blufftop and shoreline development.

redevelopment in Land Use Plan Policy C-EH-5 and §13252(b)'s language specifying that replacement of 50% or more of a structure is not considered solely repair and maintenance of an existing structure but instead constitutes an entirely new replacement structure. Therefore, as modified, the IP implements and clarifies the LUP's requirements pertaining to nonconforming structures and uses.

Land Divisions

The LUP includes numerous policies that are either directly or indirectly applicable to land division, including those that direct new development into already existing developed areas (Policy C-CD-2); require land divisions to be consistent with LCP density, resource protection, and rural land division criteria (C-CD-3); allow land division only where there is adequate water, sewer, traffic, and other public services available to serve it (C-PFS-1); and prohibit land division in sensitive coastal resource areas, including ESHA (Policy C-BIO-2 only allows resource dependent development in ESHA, and land division is a type of development that is not resource dependent). However, the IP does not include a separate chapter that is specific to land division, instead relying on cross-references to Chapter 22.86 which is a non-LCP Marin County Municipal Code chapter that implements the State Subdivision Map Act. Therefore, in order to delete the cross-reference and insert provisions directly into the LCP that are specific to how land division interfaces with LCP requirements, a new section is added to Chapter 22.70: Section 22.70.190: Land Divisions. The section clarifies what types of land division are considered to be development, including subdivision (through parcel map, tract map, grant deed), lot line adjustments (LLAs), redivisions, mergers, and certificates of compliance. Section 22.70.190(B) lists the required criteria that land divisions must meet (in addition to other applicable LCP policies), including a prohibition on land division if located outside of designated village limit boundaries and within an area found to have limited public service capacities (thereby ensuring no new parcels are created in rural areas with limited public services, consistent with both the Coastal Act and the LUP), and that lot line adjustments shall only be approved if the resulting parcels protect coastal resources in a manner equal to or better than their existing configuration. The section also states that land division is never a principal permitted use in any zoning district; therefore, all land divisions within the Marin County coastal zone are appealable to the Coastal Commission. Therefore, as modified, the IP includes a clear and concise section that specifies what types of land divisions constitute development requiring a CDP, and the standards that are required to be met.

Other modifications include adding a new section 22.70.175: Violations of Coastal Zone Regulations and Enforcement of LCP Provisions and Penalties, which specify the County's authority in enforcing Coastal Act and LCP violations. Of particular note is the requirement that no CDP application shall be approved unless all unpermitted development on the property affected by the application is proposed to be removed or retained consistent with the LCP.

Chapter 22.70.160: Coastal Zone Variance Exemptions is suggested for deletion because it impermissibly exempts up to a 35% increase in floor area, or 300 feet, from variance requirements, as well as up to a 30% increase in floor area when the structure is required to be raised above the base flood elevation. In addition, since all development that requires the granting of a variance is not principally permitted in any zoning district, a suggested

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modification is necessary to ensure such development is therefore appealable to the Coastal Commission.

Finally, section 22.70.180 includes detailed requirements for the economic evaluation of a takings analysis. However, as proposed, the analysis only is required for development that raises takings issues based on ESHA constraints. A suggested modification broadens the applicability of the takings provisions, facilitating the analysis for any development that raises takings concerns, including, for example, development subject to coastal hazards.

As modified, the IP's Chapters 22.68 and 22.70 identify what constitutes development requiring a CDP, what is exempt, the six different CDP categories, and the standards that must be met, all consistent with Coastal Act and LUP requirements. In addition, the IP, as modified, maximizes public involvement in coastal permitting decisions, consistent with public comments highlighting the clear need for such maximum public participation. The IP as modified as it pertains to coastal development permitting procedures is thus consistent with, and adequate to carry out, the conditionally certified Land Use Plan.

5. PUBLIC SERVICES AND NEW DEVELOPMENT

The IP includes a series of standards meant to implement the Land Use Plan's broad swath of coastal resource protection policies, including adequacy of public services to serve new development, protection of visual resources and community character, and the provision of public access and recreation.

A. Applicable Land Use Plan Policies

C-PFS-1 Adequate Public Services. *Ensure that adequate public services (that is, water supply, on-site sewage disposal or sewer systems, and transportation including public transit as well as road access and capacity if appropriate) are available prior to approving new development, including land divisions. In addition, ensure that new structures and uses are provided with adequate parking and access. Lack of available public services, or adequate parking and access, shall be grounds for project denial or for a reduction in the density otherwise indicated in the land use plan.*

C-PFS-2 Expansion of Public Services. *Limit new or expanded roads, flood control projects, utility services, and other public service facilities, whether publicly owned or not, to the minimum necessary to adequately serve development as identified by LCP land use policies, including existing development. Take into account existing and probable future availability of other public services so that expansion does not accommodate growth which cannot be handled by other public service facilities. All such public service projects shall be subject to the LCP.*

C-PFS-4 High-Priority Visitor-Serving and other Coastal Act Priority Land Uses. *In acting on any coastal permit for the extension or enlargement of community water or community sewage treatment facilities, determine that adequate capacity is available and reserved in the system to serve VCR- and RCR-zoned property, other visitor-serving uses, and other Coastal Act priority land uses (i.e. coastal-dependent uses, agriculture, essential public services, and*

public recreation). In areas with limited service capacity (including limited water, sewer and/or traffic capacity), new development for a non-priority use, including land divisions, not specified above shall only be allowed if adequate capacity remains for visitor-serving and other Coastal Act priority land uses, including agricultural uses.

C-PFS-14 Adequacy of Water Supply Within Water System Service Areas. *Ensure that new development within a water system service area is served with adequate, safe water supplies. Prohibit development of individual domestic water wells or other individual water sources to serve new development, including land divisions, on lots in areas served or within the boundaries of a public or private water system, with the following exceptions:*

- 1. For agricultural or horticultural use if allowed by the water system operators;*
- 2. The community or mutual water system is unable or unwilling to provide service; or,*
- 3. Extension of physical distribution improvements to the project site is economically or physically infeasible.*

The exceptions specified in 1, 2, or 3 shall not be granted because of a water shortage that is caused by periodic drought. Additionally, wells or water sources shall be at least 100 feet from property lines, or a finding shall be made that no development constraints are placed on neighboring properties.

C-PFS-16 Standards for Water Supply Wells and Other Water Sources.

- 1. In areas where individual water wells or other individual domestic water sources are permitted, require on-site tests that demonstrate a sustained pumping rate, or equivalent, of 1.5 gpm for each residential unit or subdivided parcel. Higher yields, storage and other facilities may be required for fire protection purposes, as recommended by the appropriate fire protection agency.*
- 2. Require that well or water sources shall be at least 100 feet from property lines, unless a finding is made that no development constraints are placed on neighboring properties.*
- 3. Allow a well only where a finding is made that it will not have adverse direct or cumulative impacts on coastal resources.*
- 4. Within the Inverness Planning Area, allow no individual wells on parcels less than 2.8 acres in size, unless a specific exception is granted based on findings required by the coastal permitting chapter of the Development Code and on a demonstration to the satisfaction of the Health Officer that a well can be developed on the substandard size parcel in a completely safe and sanitary manner.*
- 5. Within the Inverness Public Utility District (IPUD), permit no individual wells for domestic use in the same watershed, at an elevation higher than the IPUD surface water sources existing as of June 14, 1983.*

B. LUP Background

The Background section of the Public Facilities and Services chapter describes the coastal zone's water, wastewater, and transportation infrastructure, as well as other components of the built environment. It states that most development in the coastal zone receives water and sewage

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services through individual property-specific systems managed by private landowners, since community water supply and sewage disposal systems are limited and exist only in some of the villages. This limited community service capacity is largely due to the local soil conditions and aquifer characteristics. Small water districts provide service in a number of areas, including Bolinas Community Public Utility District (BCPUD), Stinson Beach County Water District (SBCWD), Inverness Public Utility District (IPUD), and Muir Beach Community Services District (MBCSD). The community of Dillon Beach is served by two small independent water companies: the California Water Service Company (formerly Coast Springs Water Company) and the Estero Mutual Water System (EMWS). SBCWD, MBCSD, and the Dillon Beach area primarily use groundwater for their water supplies while IPUD and BCPUD rely mainly on surface water. Beyond the current water service district boundaries, private wells or small mutual water systems rely on individual groundwater wells, surface water, or small spring-based sources. Many of these sources occur in the limited areas of high water-yielding sediments in alluvial valleys, while much of the rest of the area is characterized by low-permeability fractured bedrock and thin alluvial deposits with too little saturated thickness to produce meaningful supplies of water. Sewage disposal is generally provided by individual on-site systems, including along the East Shore of Tomales Bay, Point Reyes Station, Inverness Ridge, Olema, Stinson Beach, and Muir Beach, parts of Dillon Beach, and most of Bolinas. Other areas are served by community sewer facilities, or in a few cases, small package treatment plants. Soil and groundwater conditions can affect the feasibility of new on-site systems or, in some cases, the functioning of existing systems.

In preparation of updating the LCP, the County prepared a Land Use Analysis Report, documenting the status of existing and projected public services, including water, sewer, and traffic. While the analysis showed that there remains adequate capacity within the coastal zone's roads and highways to accommodate planned growth, the report showed that water and sewer capacities in many locations are already burdened and will most likely not be able to accommodate planned growth. In particular, the buildout analysis says that "Most of the water agencies are strained to meet peak demands in summer and seek additional supply or storage to meet peak demands" (page 5 of the Land Use Analysis Report). Specifically, the report states that Coast Springs Water Company and Bolinas Public Utility District (which serve water to parts of Dillon Beach and Bolinas, respectively) have moratoria on new water connections, while Stinson Beach County Water District, North Marin Water District-West Marin, Inverness Public Utility District, Estero Mutual Water Company, and private wells serving Marshall are all straining to meet existing capacity and are projected to not be able to serve buildout. Of particular water supply concern is the East Shore of Tomales Bay/Marshall area, where Coastal Act priority agriculture and visitor-serving uses are predominant, where the report states that the area relies on individual wells or springs and four Transient, Non-Community Water Systems: Hog Island Oyster Company, Marshall Boat Works, Nick's Cove, Tony's Seafood. Page 30 of the report states that:

*"There continues to be **major public service constraints** on new shoreline development as well. Water is lacking and most lots cannot support on-site sewage disposal systems consistent with established standards from the County and the Regional Water Quality Control Board....Except for a few locations, such as the canyon behind Marconi Cove marina, most of the east side of Tomales Bay has little known potential for development of additional water supplies. The ability of surface sources to provide supply is limited by the*

*fact that many east side streams are intermittent and thus cannot be used year-round. Some of these **streams are already used for agriculture**, a use which has priority over private residential development in the Coastal Act. The potential for obtaining water from groundwater supplies also appears quite limited. Studies of water supply undertaken in the late 1960's by the North Marin County Water District determined that there are **no dependable supplies of groundwater in any quantity in the geologic formations on the east side of the Bay and that groundwater supplies along Walker Creek are severely limited.**"* (emphasis added)

Thus, the provision of water and other public services is a key issue in Marin's coastal zone, including ensuring that there remains adequate water supply for Coastal Act priority land uses such as agriculture.

Land Use Plan Policies C-PFS-1 and C-PFS-2 implement Coastal Act Sections 30250 and 30254 by requiring a finding for all proposed development that adequate public services are available to serve such development. Required services include water, sewage disposal, and transportation (i.e., road access, public transit, parking, bicycle/pedestrian facilities). Lack of such services constitutes grounds for denial or a reduction in the density/size of the proposed project. Policy C-PFS-4 requires any extension or enlargement of a water or sewage treatment facility to reserve capacity for properties zoned C-VCR (Coastal Village Commercial/Residential), C-RCR (Coastal Resort and Commercial Recreation), coastal-dependent uses, agriculture, essential public services, and public recreation and requires a finding for all non-priority land uses that adequate capacity remains for priority uses. Additionally, public service expansions must be limited to the minimum necessary to adequately serve development otherwise allowed for in the LCP, and not induce additional growth that either is not allowed or that cannot be handled by other public services. The LUP then contains numerous other required findings and standards for particular services, including a requirement that development located within a public or private water system service area connect to that system (and not rely on a private well) and a new requirement that development located within a village limit boundary connect to the public sewer system (and not rely on a private septic system). While Policy C-PFS-14 allows for certain exceptions to the requirement that no wells be allowed within a water service boundary, it clarifies some of the potentially allowed exceptions, including for agricultural or horticultural use if allowed by the water provider, if the water provider is unwilling or unable to provide service, or if extension of physical distribution improvements to serve such development is economically or physically infeasible. No exception is allowed, however, because of a water shortage caused by periodic drought. For allowable wells, the LUP requires a CDP for all wells, and includes required standards such as a sustained pumping rate of 1.5 gallons per minute and that there are no adverse impacts to coastal resources.

C. Proposed Implementation Plan

The proposed IP implements the aforementioned LUP policies through Section 22.64.140, which cross-reference the corresponding LUP policy. However, while this construct is appropriate where LUP policies themselves offer necessary details (including, for example, Policy C-PFS-14's standards for water supply wells, including requirements that the well demonstrate a sustained pumping yield of 1.5 gallons per minute, be located at least 100 feet from property lines, and others), it is not adequate when the LUP policy itself lists broad goals and statements without the necessary details on how to implement those policy goals. For example, Policy C-

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PFS-1 requires new development to be served by adequate public services, and Policy C-PFS-4 requires that Coastal Act priority land uses be given priority over other types of development in areas with limited service capacities. However, missing from the proposed IP are terms that define when public services are adequate, and the process by which LUP certified priority uses (such as agricultural production) will be given priority over other types of development (such as residential and general industrial) in areas with defined service inadequacies. Therefore, the IP as proposed is not adequate to implement the conditionally certified LUP policies, and must therefore be denied as submitted and approved with suggested modifications that define these terms.

D. Denial as Submitted and Approval with Suggested Modifications

Specifically, modifications are added to IP Section 22.64.140(A)(1). The modification defines the process for how adequacy of services is determined, with provisions specific to development receiving water/wastewater from either a public provider (i.e. a water system operator or community sewer system) or from an individual private well or private septic system. For public water/wastewater, subsection (a) requires written evidence from the service provider documenting that there is adequate capacity to serve the development given the other outstanding commitments. Subsection (b) describes the requirements for a private well, stating that applications must have a report demonstrating that the well yield meets the LCP-required minimum pumping rate of 1.5 gallons per minute, the water quality meets safe drinking water standards, and that the extraction will not adversely impact other wells located within 300 feet of the proposed well; adversely impact adjacent biological resources including streams, riparian habitats, and wetlands; and will not result in insufficient water supply available for existing and continued agricultural production or for other priority land uses (i.e. coastal-dependent uses, public recreation, essential public services, and within village limit boundaries only, visitor-serving uses and commercial recreation uses). These standards emanate from other IP sections (including requirements specified in Section 22.65.050(C)(1)(b) that all development within C-APZ have adequate public services *after* provision has been made for existing and continued agricultural production) or from other LCPs that address these issues, including the 300 feet well standard which is included in Mendocino County's LCP. Next, Subsection (c) describes the standards for private septic systems, stating that such systems must be approved by the Environmental Health Services Division of the Community Development Agency and comply with all applicable requirements for individual septic disposal systems by the Regional Water Quality Control Board. All of these listed standards emanate from recent Commission actions on LCP amendments pertaining to adequacy of public services¹⁷. Therefore, as amended, the IP includes a series of standards that describe the process and required findings for determining whether new development is able to be served with water and wastewater.

Additionally, the modification offers a definition of "limited service capacity" for both water system operators and for public/community sewer systems. Subsection (d) states that limited service capacity shall be defined as follows: for water systems operators, limited capacity is defined when projected demand based upon both outstanding water commitments to existing development and projected development exceeds available supply; and for public/community

¹⁷ See San Mateo County LCP Amendment No. SMC-1-11 (Midcoast Update), approved by the Commission at its August 2012 meeting, which provided new standards for water and sewer provision in the urban Midcoast area of San Mateo County's coastal zone.

sewer systems, when projected demand for service based upon both outstanding sewer commitments to existing development and projected development exceeds available capacity. The basic framework behind these definitions is that supply is limited when demand exceeds supply/capacity. Within such designated areas, subsection (d) then describes how Coastal Act priority uses (including agricultural production, coastal-dependent uses, public recreation, essential public services, and, within village limit boundaries only, visitor-serving uses and commercial recreation uses) are to be prioritized in areas with a defined limited service capacity. Specifically, non-priority uses (i.e. any use not listed above), if otherwise allowable, shall be required to offset their anticipated water usage through the retrofit of existing water fixtures within the same service area of the water system operator. Reducing such water usage both ensures that water is reserved in areas of limited water supply, but also addresses areas with limited sewer capacity because it reduces the amount of water that is being consumed and therefore would necessitate subsequent treatment. This retrofit requirement has been used in other water scarce coastal communities to ensure adequacy of water supplies, and essentially ensures that non-priority development does not usurp scarce water supplies and sewage treatment capacity. For example, in the Cambria community of San Luis Obispo County, North Coast Area Plan (a component of the LCP's Land Use Plan) Policy 4(B) requires "new development resulting in increased water use shall offset such increase through the retrofit of existing water fixtures within the Cambria Community Service District's service area, or through other verifiable actions to reduce existing water use in the service area (e.g. the replacement of irrigated landscaping with xeriscaping)." The modification ensures that non-priority uses are water neutral, thereby reserving any existing capacity for priority uses. Finally, as required in IP section 22.70.190, land division is prohibited in areas outside of designated village limit boundaries and found to have limited public service capacities, thereby ensuring areas with limited public services and outside of the LCP's designated urban/rural boundaries are not expanding development potential by creating new parcels that necessitate usage of scarce public services.

Thus, as modified, the IP includes a series of standards meant to implement the conditionally certified LUP public service policies by defining the process by which adequacy of public services is to be determined, as well as definitions for "limited public services" and the additional requirements that non-Coastal Act and LCP priority land uses must meet in order to ensure that priority uses aren't precluded. Therefore, the IP, as modified, thus conforms with and is adequate to carry out the conditionally certified Land Use Plan.

6. VISUAL RESOURCES AND COMMUNITY CHARACTER

A. Applicable Land Use Plan Policies

C-DES-1 Compatible Design. *Ensure that the siting, height, scale, and design (including materials and color) of new structures are compatible with the character of the surrounding natural and built environment. Structures shall be designed to follow the natural contours of the land and shall limit reflectivity of glass and other surfaces.*

C-DES-2 Protection of Visual Resources. *Development shall be sited and designed to protect significant views, including views both to and along the ocean and scenic coastal*

areas as seen from public viewing areas such as highways, roads, beaches, parks, coastal trails and accessways, vista points, and coastal streams and waters used for recreational purposes. The intent of this policy is the protection of significant public views rather than coastal views from private residential areas. Require development to be screened with appropriate landscaping provided that when mature, such landscaping shall not interfere with public views to and along the coast. The use of drought tolerant, native coastal plant species is encouraged. Continue to keep road and driveway construction, grading, and utility extensions to a minimum, except that longer road and driveway extensions may be necessary in highly visible areas in order to avoid or minimize other impacts.

C-DES-3 Protection of Ridgeline Views. *Require new development proposed on or near visually prominent ridgelines to be grouped below the ridgeline on the least visually prominent portion of the site. Prohibit new development on top of, within 300 feet horizontally, or within one hundred feet vertically of visually prominent ridgelines, whichever is more restrictive, if other suitable locations are available on the site. If structures must be placed within this restricted area because of site size or similar constraints, they shall be in locations that are least visible from public viewing areas, shall be sited and designed to limit public view impacts to the maximum extent feasible (including through landscaping and screening), and shall not exceed 18 feet in height.*

C-DES-4 Limited Height of New Structures. *Limit all new construction to a maximum height of twenty-five (25) feet with the following exceptions:*

- 1. In the Highlands neighborhood of Stinson Beach, the maximum height shall be no more than seventeen (17) feet (see Map 17 – Stinson Beach Highlands Subdivision).*
- 2. In FEMA special flood hazard (V) zones within the Seadrift Subdivision, the maximum building height of 15 feet shall be measured from the minimum floor elevation required by the flood hazard zone designation (see also Environmental Hazards Policy C-EH-11: Minimum Floor Elevations in the Flood Velocity Zone at Seadrift).*
- 3. On the shoreline of Tomales Bay, the maximum height shall be fifteen (15) feet. (See also Community Development Policy C-CD-6: Standards for Development on the Shoreline of Tomales Bay).*
- 4. Telecommunications facilities, spires, water tanks, and similar structures may exceed such height limits above. However, any structure that exceeds the 25 foot height limit shall only be authorized upon specific findings of consistency with other applicable policies of the LCP, including C-DES-1, 2, and 3.*

In all cases, the height limits specified in this policy are maximums and not entitlements. Heights may be limited to less than the maximum allowed if necessary to achieve consistency with LCP policies, including in relation to the protection of public views and community character.

C-DES-5 New Signs. *Ensure that new signs (including reconstructed and/or modified signs) are of a size, location, and appearance so they do not detract from scenic areas or views from public roads and other viewing points.*

C-PFS-19 Telecommunications Facilities. *Require a coastal permit, in addition to any other required permit, for all telecommunications facilities, unless exempt per Section 22.68. Require facilities to be consistent with all provisions of certified LCP unless denial would be prohibited by federal law. Ensure through siting, co-location, “stealth” design and other measures that telecommunications facilities are designed and constructed to minimize impacts on coastal views, community character, natural resources, wildlife, and public safety. To the extent feasible, such facilities shall be located outside of significant public views.*

B. LUP Background

The Background section of the Community Design chapter describes the character of the Marin coastal zone as containing small-scale communities, farms, scattered residences, and businesses. The built environment is subordinate to the natural environment; natural landforms, streams, forests, and grasslands are dominant. Yet the residential, agricultural, and commercial buildings, as well as the community services that support them, have particular significance, both as the scene of daily life and for their potential impacts on natural resources. Visitors enjoy coming to Marin’s coast because of the small-scale character of its built environment surrounded by agricultural and open space lands that offer a pastoral, rural character.

Policy C-DES-1 requires new development to be compatible with the character of the surrounding natural and built environment, including its siting, height, scale, and design. Policy C-DES-2 requires development to be sited and designed to protect significant views, and defines significant views to include views both to and along the ocean and scenic coastal areas as seen from public viewing areas such as highways, roads, beaches, parks, coastal trails and accessways, vista points, and coastal streams and water used for recreational purposes. Policy C-DES-3 requires the protection of visually prominent ridgelines. The policy prohibits new development on top of, within 300 feet horizontally, or 100 feet vertically of visually prominent ridgelines, and allows development in a ridgeline-protected area only if there is no other buildable site, and if such development is in the area least visible from public viewing areas. Policy C-DES-4 limits all development to be a maximum of 25 feet, with some stated exceptions, including 15 feet in Seadrift and along the Tomales Bay shoreline, 17 feet in Stinson Beach Highlands, and greater than 25 feet for structures such as telecommunications facilities when they are found to have no significant impacts to visual resources and community character. Policy C-DES-5 requires new signs to be of a size, location, and appearance so they do not detract from scenic areas or views from public roads and other viewing points. Finally, visually prominent and potentially obtrusive structures such as telecommunications facilities are required to minimize impacts to natural resources, community character, and be located outside of significant public views, including by such measures as co-location on existing facilities.

C. Proposed Implementation Plan

The proposed IP implements these LUP policies primarily through Section 22.64.100: Community Design, which cross-references the applicable LUP policy. For example, Section 22.64.100(A)(2) requires that “development shall be sited and designed to protect visual resources per Land Use Policy C-DES-2”. As previously mentioned, this LUP policy ensures that development protects significant public views, including views to and along the shoreline. Additionally, Tables 5-4 and 5-5 within Section 22.64.030 list the maximum height limits for

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each zoning district as 25 feet, with limited exceptions to the 25 feet height limit specified in cross-referenced Section 22.20.060.

D. Analysis

In general, the IP implements corresponding LUP visual resource protection policies via its general construct of cross-referencing the corresponding LUP policy. Therefore, LUP requirements that specify the need to protect views to and along the ocean, and that protect significant ridgelines by directing new development outside of the area 300 feet vertically or 100 feet horizontally of those ridgelines, are implemented. However, certain terms and standards need additional clarification, including those pertaining to signs and telecommunications facilities, as well as the need to insert a process by which height, setback, and other development standards are implemented.

With respect to signs, while the IP requires that signs be of a size, location, and appearance so as to protect significant public views, including from public roads and other public viewing points, it does not provide the specificity needed to be effectively implemented, including defining what types of signs are prohibited. Therefore, suggested modifications are added in Section 22.64.100(A)(5) that use language from the County's non-LCP sign ordinance, including specifying that billboards, digital commercial displays, animated signs, and signs using reflective material are all prohibited in the coastal zone. The modification also adds language that all signs shall protect and enhance coastal resources, including significant public views and community character. Finally, since some signs may be exempt from CDP requirements per Coastal Act Section 30610's exemption for improvements to existing structures, a modification is required to state that a CDP is required for any sign that could result in a change in the availability of public recreational access, including signs indicating restrictions on parking and signs stating no public coastal access allowed. The modification thus clarifies that such signs constitute a change in access to coastal waters, which is development per Coastal Act Section 30106 that requires a CDP.

With respect to telecommunications facilities, Section 22.32.165 implements LUP Policy C-PFS-19's requirements that ensure, through siting, co-location, "stealth" design and other measures that telecommunication facilities are designed and constructed to protect coastal resources, including significant public views. Section 22.32.165 lists the requirements for telecommunications facilities; however, the policy as proposed only cross-references the Marin County Telecommunications Facilities Policy Plan, a non-LCP policy document. Therefore, the section as proposed does not adequately implement the LUP's requirements, nor does it list the standards generally found in LCPs pertaining to telecommunications facilities¹⁸, including strong requirements for co-location on existing facilities, siting new facilities outside of significant public view areas to protect views to and along the coast, and 10 year CDP authorizations. Thus, a suggested modification adds a new telecommunication facilities standard applicable only in the coastal zone, which, in general, requires the aforementioned policies, as well as some language pulled from the County's own Telecommunication Facilities Policy Plan (including a prohibition on new facilities from being located in Ridge and Upland Greenbelt areas and requirements that support facilities be placed underground or blend visually with the landscape). As modified, the

¹⁸ Including the most recent telecommunications facilities amendment for the City of Half Moon Bay (LCP-2-HMB-13-0221-2 Part 3, approved by the Commission in April 2014).

telecommunications requirements provide enhanced requirements for these types of facilities and are consistent with the LUP's visual, biological, and agricultural policies.

Finally, while Tables 5-4 and 5-5 in Section 22.64.030 list the allowed height limit in the coastal zone at 25 feet, and list required building setbacks (which vary depending on zoning district), they cross-reference non-LCP Municipal Code Sections 22.20.060 and 22.20.090. These two sections describe the process by which certain height standards may be increased, including for telecommunications facilities, chimneys, and water tanks, as well as how height is to be measured, including on slopes, as well as the process for measuring setbacks and their allowed exceptions. In essence, these sections include the necessary details that describe the process by which building height and setback are measured, including their allowed exceptions and the findings that must be made. Therefore, a modification is required to delete the cross-references and instead insert application provisions directly into the IP in a new section 22.64.045: Property Development and Use Standards. The modified section states that any height limit exceedance for a telecommunication facility or other similar structure may only be allowed upon findings of consistency with LUP policies that protect significant public views and ridgelines. Finally, the section clarifies that no setback reduction may be allowed for those required to protect ESHA nor for setbacks required for hazards protection, thereby ensuring that these key Coastal Act and LCP requirements are not weakened.

Public comments have asserted that the IP should include more objective, quantitative standards to ensure implementation of LUP policies that require protection of community character. Indeed, community character is a rather subjective term in which reasonable minds may differ. Specifically, members of the public have suggested that in all zoning districts except C-APZ, the maximum building area for a single-family residence, including garage and accessory buildings, be capped at 4,500 square feet, and the maximum size of all new or reconstructed single-family dwellings be capped at 3,500 square feet plus up to 500 square feet for a garage. While the language proposed by public commenters does indeed offer objective, quantitative criteria, the proposed language does not substantiate how such sizing requirements adequately implement Land Use Plan Policy C-DES-1, which requires that the siting, height, scale, and design of new structures be compatible with the character of the surrounding natural and built environment. A proposed policy capping the size of single-family residences requires a detailed site specific analysis of each particular community subject to the proposed development, including evaluating the size of the proposed residence in relation to the size of other homes in that community. For example, the 7,000 square foot cap on the aggregate size of agricultural dwelling units in the C-APZ zone was developed after a detailed analysis performed by the County identified that the average size of farmhouses in agricultural zoning districts was around 2,000 square feet. Unlike the cap for agricultural dwellings in the C-APZ, the uniform cap proposed for all single-family residences elsewhere in the County does not adequately address how communities within the County differ in character. Thus, absent an analysis, including a summary of the size of all homes in each of the County's communities, the sizing requirements proposed by public commenters represent a one-size-fits-all approach to an inherently localized community issue. Also, size is but one of many factors that determine community character, and residences may be designed in ways that reduce their impacts on the surrounding environment. Finally, the proposed cap on all single-family residences is a limitation that should originate with the County and be subject to local hearings; it is not a suggested modification that should originate with the Commission without that local process first being undertaken. For all these reasons, the numeric

sizing requirements of all homes in the coastal zone is not included as a suggested modification to the IP as submitted.

As modified, the IP conforms with and adequately implements the conditionally certified LUP visual resource and community character policies, including specifying the types of views that are protected, where development is allowed in relation to ridgelines, and the process by which building height and setback is determined. Therefore, the IP, as modified, conforms with and is adequate to implement the conditionally certified LUP.

7. PUBLIC RECREATION AND PUBLIC COASTAL ACCESS

A. Applicable Land Use Plan Policies

C-PK-1 Opportunities for Coastal Recreation. Provide high priority for development of visitor-serving and commercial recreational facilities designed to enhance public opportunities for lower-cost coastal recreation. On land designated for visitor-serving commercial and/or recreational facilities, ensure that higher priority shall be given to such uses over private residential or general commercial development. New visitor-serving uses shall not displace existing lower-cost visitor-serving uses unless an equivalent replacement is provided.

C-PK-3 Mixed Uses in the Coastal Village Commercial/Residential Zone. Continue to permit a mixture of residential and commercial uses in the C-VCR zoning district to maintain the established character of village commercial areas. Principal permitted use of the C-VCR zone shall include commercial uses. In the village commercial core area, residential uses shall be limited to: (a) the upper floors, and/or (b) the lower floors if not located on the road-facing side of the property. Residential uses on the ground floor of a new or existing structure of the road-facing side of the property shall only be allowed subject to a use permit where a finding can be made that the development maintains and/or enhances the established character of village commercial areas. Existing legally established residential uses in the C-VCR zone on the ground floor and road-facing side of the property can be maintained.

C-PA-2 Public Coastal Access in New Development. Examine proposed new development between the shoreline and the first public road, whether or not it is mapped as the first public road for purposes of coastal permit appeals, for impacts on public access to the coast. Where the provision of public access is related in nature and extent to the impacts of the proposed development, require dedication of a lateral and/or vertical accessway, including segment(s) of the California Coastal Trail as provided by Policy C-PK-14, as a condition of development, unless Policy C-PA-3 provides an exemption. Impacts on public access include, but are not limited to, intensification of land use resulting in overuse of existing public accessways, creation of physical obstructions or perceived deterrence to public access, and creation of conflicts between private land uses and public access.

C-PA-19 Explanatory Signs at Public Coastal Accessways. Sign existing and new public coastal accessways, trails, and parking facilities where necessary, and use signs to minimize conflicts between public and private land uses. Where appropriate, signs posted along the

shoreline shall indicate restrictions, such as that no fires or overnight camping are permitted, and that the privacy of homeowners shall be respected. Where public access trails are located adjacent to agricultural lands, signs shall indicate appropriate restrictions against trespassing, fires, camping, and hunting. Where only limited public access or use of an area can be permitted to protect resource areas from overuse, such signing should identify the appropriate type and levels of use consistent with resource protection. The County and CALTRANS shall, as resources permit, post informational signs at appropriate intersections and turning points along visitor routes, in order to direct coastal visitors to public recreation and nature study areas in the Coastal Zone.

C-PA-20 Effects of Parking Restrictions on Public Coastal Access Opportunities. *When considering a coastal permit for any development that could reduce public parking opportunities near beach access points or parklands, including any changes in parking timing and availability, and any signage reducing public access, evaluate options that consider both the needs of the public to gain access to the coast and the need to protect public safety and fragile coastal resources, including finding alternatives to reductions in public parking and ways to mitigate any potential loss of public coastal access.*

B. LUP Background

The background section of the Parks, Recreation and Visitor-Serving Uses chapter describes the coastal zone as home to a myriad of protected natural communities and some of the region's most popular national, state and County parks, including Point Reyes National Seashore and the Golden Gate National Recreation Area. Much of the coastal zone lies within publicly-owned and protected parks and recreation areas. In addition to extensive shoreline parks, limited areas are held by non-governmental entities, such as Audubon Canyon Ranch, that also provide opportunities for public coastal access, while protecting wildlife habitat and open space. Communities in the southern part of the coastal zone are in close proximity to the City of San Francisco, and tend to generally have higher demand for day-use opportunities and lower demand for overnight accommodations than communities farther north. Parks throughout the County are critical in providing access to represent a low-cost option for recreational pursuits. Commercial visitor-serving facilities provide much of the supply of overnight accommodations throughout the coastal zone, and generally consist of small inns and bed and breakfast facilities in villages and rural areas. Overnight accommodations are a key element in the provision of coastal recreational opportunities, since many coastal visitors travel long distances to reach the variety of recreation options found throughout the County.

The Public Coastal Access chapter states that opportunities for creating new public coastal accessways are limited in Marin County, given that much of the ocean shoreline is already under public ownership. The shoreline from Point Bonita near the Golden Gate extending north around the Point Reyes Peninsula to Point Reyes Station is largely public parkland. Within this stretch of the coastal zone are the small communities of Muir Beach, Stinson Beach, Bolinas, Inverness, Olema and Point Reyes Station. Within most of these communities, some private land adjoins the shoreline, but even so there are locations at which public shoreline access is available. From Point Reyes Station north along the east shore of Tomales Bay to the Sonoma County line lies a patchwork of public and private land, some of which is within the coastal communities of East Shore/Marshall, Tomales, and Dillon Beach. Within this northern reach of the Coastal Zone,

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shoreline access opportunities are available at only limited locations, and the dominant land use is agriculture.

The conditionally certified LUP includes goals, objectives, and policies designed to protect, maintain, and improve a multitude of public access and recreational opportunities in the Marin County coastal zone. The conditionally certified LUP contains policies that facilitate the development of visitor-serving uses, and also lists recommendations for development within the numerous local, state, and federal parks that would help further increase coastal recreational opportunities and access. Specifically, Policy C-PA-2 requires all new development between the shoreline and first public road to be evaluated for impacts on public access to the coast, and requires new public access to be provided, if appropriate. Policies C-PA-19 and -20 require parking and signage at coastal accessways, including evaluating whether closure of public parking facilities at accessways could impact public access requiring mitigation for any access impact, and stating that changes to parking timing and availability and any signage indicating parking restrictions, must be evaluated for project alternatives or mitigation.

In terms of the Parks, Recreation and Visitor-Serving Uses chapter, Policy C-PK-1 requires priority for visitor-serving commercial and recreational facilities over private residential or general commercial development. Policy C-PK-3: 1) designates commercial uses as the sole principal permitted use and residential uses as permitted or conditional uses (to be consistent with Coastal Act Section 30603 that each zoning district contain one principal permitted use and to recognize that commercial uses are the primary uses sought for this zoning district); 2) directs new residential uses in the commercial core area to either the upper floor of a mixed-use building or the lower floor if not located on the road-facing side of the street; and 3) requires a finding for any residential development on the ground floor of a new or existing structure on the road-facing side of the property that the development maintains and/or enhances the established character of village commercial areas. As stated earlier, this zoning district is used in the coastal villages to facilitate the development of walkable, mixed-use commercial districts along primary streets, including Highway 1. In many ways, this zoning district implements a type of “Main Street” feel to the coastal villages because it allows a variety of local and visitor serving commercial uses and allows structures to be sited and designed (including through no building setback requirements, for example) so as to allow density and walkability in the village center.

C. Proposed Implementation Plan

The proposed IP implements the LUP’s public access and recreation policies in Section 22.64.170, requiring that all development be consistent with the Parks, Recreation and Visitor Serving Uses policies of the LUP, including that development of visitor serving and commercial recreation facilities shall have priority over residential or general commercial development, and that a mixture of residential and commercial uses shall be permitted in the C-VCR district. Additionally, Section 22.64.180 addresses public coastal access and likewise mandates that development be consistent with all Public Coastal Access policies of the LUP, including those cited above. Consistent with C-PA-2, Section 22.64.180(B)(1) requires that new development located between the shoreline and first public road be evaluated for impacts on public access, and a requirement to dedicate lateral, vertical and or bluff top access where such requirement is related in nature and extent to the impacts of the proposed development. Section 22.64.180(B)(10) provides that parking, signage and support facilities shall be provided in conjunction with public coastal accessways where appropriate and feasible consistent with LUP

Policies C-PA-18 and 19, and also requires that that any proposal to restrict public parking near beach access points be evaluated per LUP Policy C-PA-20. Finally, Table 5-3 in Chapter 22.62 lists the allowable land uses and their permitting status for the coastal zone's five Coastal Commercial and Mixed-Use Districts, including the Coastal Village Commercial Residential (C-VCR) district and the Coastal Resort and Commercial Recreation (C-RCR) district, two primary districts meant to prioritize visitor-serving and commercial recreation development.

D. Analysis

The proposed IP incorporates, by cross-reference, relevant LUP policies applicable to Parks, Recreation and Visitor Serving Uses and Public Access. However, 22.62's use charts do not adequately prioritize visitor-serving development. For example, while only commercial uses are allowed to be categorized as principally permitted in these commercial zoning districts (per Coastal Act Section 30603's requirement that only one use per zoning district be designated as principally permitted), as proposed, non-commercial uses such as residential uses including single-family dwellings are proposed to be principally permitted in the C-VCR zone, while affordable housing is principally permitted in the C-RCR district. Thus, a modification is required to change these non-commercial uses from PPU to permitted uses. Finally, some uses that are inconsistent with the purpose of the zoning district designation must also be deleted. For example, recycling facilities, construction yards, and vehicle repair and maintenance facilities (all industrial uses) must not be allowed in a pedestrian-oriented, visitor-serving commercial district such as C-VCR, while homeless shelters, and cemeteries cannot be allowed uses in the Coastal Planned Commercial (C-CP) district, of which parcels abutting the Tomales Bay shoreline are designated (thereby inconsistent with LCP policies that place a special priority for visitor serving water-related uses along the shoreline, including LUP Policy C-ES-3).

As modified, the IP conforms with and adequately implements the conditionally certified LUP's public coastal access and recreation policies.

8. RESPONSE TO PUBLIC COMMENTS

Agricultural Dwelling Units

Most of the public comments related to agriculture center on the LCP's Coastal Agricultural Production Zone district (C-APZ). This is the zoning district wherein agriculture is grown as a commodity for commercial purposes. The County's other two agriculturally related zones allow for residential development within the context of small-scale agriculture and serve to concentrate residential development to maintain the maximum amount of land in agricultural production. The primary issue when the Commission acted on the County's LUP submittal was whether to certify farm houses and intergenerational homes as principally permitted in the County's agricultural production zone. When the Commission acted on the County's LUP, the Commission agreed with the County that within the C-APZ, farm owners should have the ability to live on the land they farm. Therefore, farmhouses were conditionally certified as development that was principally permitted. In addition, to provide farmers with additional flexibility and support the family farm, the Commission also conditionally certified LUP policy language that provided farm owners with the ability to use up to a maximum of 7,000 square feet with a mixture of a single farmhouse and up to two intergenerational homes. The rest of the land zoned for production was to remain in production. While the Commission did not conditionally certify up

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to one single-family residence as a potentially permitted use on each and every legal lot within the C-APZ, it did conditionally certify a farmhouse and up to two intergenerational homes as principally permitted.

When staff recommended certifying intergenerational homes as a new form of agricultural dwelling within the C-APZ, in addition to farmhouses, public commenters expressed concerns about expanded development potential and decreased appellate oversight by the Commission. The Commission addressed these concerns by specifically confining agricultural dwellings to one farmhouse and up to two intergenerational homes per farm owner or operator, regardless of the number of legal lots the farm owner owns. In other words, the Commission focused the approved LUP policies on the family farm, including as protection of the family farm, including for intergenerational homes, which in large measure formed the basis for the County's original LCP submittal with respect to agriculture.

While some public commenters expressed concern about expanded development potential and decreased appellate oversight by the Commission due to such changes in the C-APZ, other public commenters expressed concern that they would no longer be able to build a single-family residence on each and every lot a farmer owned. These public comments expressed concern that they had a right to build a single-family residence on each and every legal lot in the C-APZ and to be deprived of this entitlement was tantamount to a taking. However, these public comments fail to acknowledge the existing limitations in the certified LCP that apply to development in the C-APZ. First, the County has other areas of the coastal zone designated residential as well as two other agricultural zones wherein residential development is to be concentrated. Second, there was never an entitlement to develop a single-family residence in the C-APZ; the County's agricultural production zone is not a residential zone and the denial of a single-family residence would still leave the farmer with the ability to grow agriculture as a commodity for commercial purposes. Third, single-family residences in the County's agricultural production zone are currently subject to stringent use limitations, including that any permissible residence must "protect and enhance continued agricultural use and contribute to agricultural viability". If this standard could be met, permanent conservation easements were to be recorded over the portion of the property not used for physical development, and a prohibition on further division of the property was executed as a covenant against the property.

Therefore, rather than deviate from the framework set up in the currently certified LCP, the conditionally approved LUP policy (that only allows one farmhouse and up to two intergenerational homes for each farm owner or operator actively and directly engaged in agriculture, regardless of how many individual legal parcels he/she owns), serves to limit the proliferation of agricultural dwelling units in the coastal zone by acknowledging that the entire "farm" can consist of multiple legal parcels that together constitute one unified farming operation. Instead of allowing the potential for the same farmer to develop multiple farmhouses spread across multiple parcels, including contiguously owned legal parcels that are under common ownership, the conditionally approved LUP policy (C-AG-5) only allows for one farmhouse, or one farmhouse and up to two intergenerational homes to allow for family members (or any other person authorized by the owner) to live on the farm property, regardless of how many parcels he/she owns. As observed in the currently certified LCP, the agricultural policies are intended to avoid buildout spread evenly across the zoning district, inefficiently utilizing the agriculturally productive land and requiring large investments for public service.

Instead, both the current and conditionally approved LUP policies seek to cluster development and direct new construction to existing communities where it can be accommodated.

As did the Commission when it conditionally approved the County's LUP in May of 2014, the Commission finds its recommended IP modifications protect and enhance the agricultural productivity and viability of the County's agricultural production zone. By limiting dwellings within the agricultural production zone to farmhouses, land values are driven agriculturally rather than residentially, helping to sustain the long term viability of agriculture and prevent large residential estates from driving up the cost of the agricultural land. For example, staff notes that starting in 2011, the Marin Agricultural Land Trust (MALT) started purchasing affirmative agricultural easements, stating it was necessary to curb the emerging trend of estate development in places like West Marin, "which provides picturesque rolling hills and an easy drive to the City for the Bay Area's wealthy." Affirmative agricultural easements require the farmer to actively farm their property and such easements are more restrictive than the easements MALT has purchased that prohibit land division and other types of non-agricultural development. Though the Commission's suggested modifications require deed restrictions and do not require affirmative agricultural easements, the fact that MALT provides additional compensation for farmers who voluntarily execute affirmative agricultural easements demonstrates the value agricultural restrictions can have on the agricultural economy overall.

The Commission's recommended suggested modifications also acknowledge the possibility that one farmer could own two wholly independent farming enterprises on non-contiguous property. As discussed above, the Commission's recommended suggested modifications define the "farm" as consisting of all legal parcels owned in either total or partial fee ownership by the applicant. Those identified parcels are then allowed one farmhouse and up to two intergenerational homes. However, in discussion with members of the agricultural community, concern has arisen about the ability to develop a second farmhouse if the applicant owns non-contiguous parcels and those non-contiguous parcels are an independent farming operation (i.e. two farms). Since the intent of conditionally certified Policy C-AG-5 is to view agricultural dwellings from a "farm" perspective, including because the genesis of the policy is to ensure that all development must be necessary for agricultural production, if non-contiguous parcels under common ownership are indeed separate, independent farming operations, then allowing agricultural dwelling units on both "farms" is consistent with LUP agricultural protection policies. Therefore, the language of this section defines "farm" to be all properties owned by the applicant. However, if non-contiguous parcels are determined to be a wholly independent farming operation, they may constitute an independent farm. The factors considered to determine whether non-contiguous parcels do indeed constitute an independent farm emanate from conditionally approved LUP Policy C-AG-9 and the County's Agricultural Stewardship Plan standards, including whether long-term capital investment in agriculture and related infrastructure has been undertaken, including processing facilities, agricultural worker housing, or agricultural leasing. Thus, these County-utilized standards have been inserted into 22.65.040(C)(1)(e)(3). Thus, as modified, the applicant may be allowed a farmhouse/two intergenerational homes on wholly independent non-contiguous farms only if the applicant demonstrates, including by such measures as the type of products grown, the history of the operations, leasing, and infrastructure, that non-contiguous parcels are indeed wholly independent farming operations. This construct is consistent with, and helps implement, the County's and Commission's desires to further the objectives of Marin's family farming operations.

Permitting of Agricultural Development

Several commenters have questioned why a CDP is required at all for agricultural uses on agriculturally zoned property. First, it is not that ongoing legally established agricultural uses require a coastal permit. What requires a coastal permit is development that constitutes either a change in use or intensity of use or new grading into an area that has not previously been farmed. In response to public comments that have been received on this topic, the Commission's suggested modifications expressly acknowledge that existing legally established ongoing agricultural production activities that have been part of a regular pattern of agricultural practices that has not been discontinued (such as ongoing rotational grazing and crop farming) does not constitute a change in intensity of use but is a recognized agricultural practice that helps to further productive use of the land. Therefore, to the extent the rotational crop farming or grazing has been part of a regular pattern of agricultural practices, it is not a change in intensity of use of the land despite the fact that the grazing and crop growing are rotationally occurring on different plots of land. Therefore, ongoing agricultural activities are defined to include an established pattern of agricultural production activities such as ongoing rotational grazing and crop farming.

Further, in recognition of the fact that agricultural activities, including cattle grazing, have historically been occurring on properties in Marin for decades, the Commission's recommended suggested modifications defining ongoing agricultural activities provide a presumption that ongoing agricultural activities that have not been discontinued for more than the previous 10 years remain ongoing. In addition, if an agricultural activity has been discontinued for more than the previous 10 years, the permit-issuing authority may allow an applicant to overcome the presumption that the agricultural production activity is no longer ongoing if the applicant demonstrates his or her ongoing intention to reinstate the agricultural production activity based on the history of agricultural production on the property, the long-term investment in the agricultural production activity on the property, and the existence of infrastructure to support the agricultural production activity.

Thus, as recommended to be modified by the Commission, ongoing agricultural activities is defined as existing legally established agricultural production activities, including all ongoing grading and routine agricultural cultivation practices (e.g. plowing, tilling, planting, harvesting, and seeding), which have not been expanded into never before used areas and have not been discontinued for more than the previous 10 years. Ongoing agricultural production activities that have been part of a regular pattern of agricultural practices that has not been discontinued for the prescribed period (such as ongoing rotational grazing and crop farming) does not constitute a change in intensity of use. Conversion of grazing to crop production or any other new or expanded activity involving grading or a change in the intensity of use of land or water that has not been part of a regular pattern of agricultural practices or has been discontinued for more than the period of time prescribed above is not an ongoing agricultural production activity but rather constitutes new development requiring a coastal permit consistent with Chapters 22.68 and 22.70, unless such development is categorically excluded by a Coastal Commission-approved Categorical Exclusion Order.

As indicated above, other public comments regarding permit requirements for agricultural activities requested that permits not be required for specified amounts of grading or terracing. However, because the Coastal Act does not prescribe what is and is not development based on

quantitative limits, such a request must instead be processed by the County as a Categorical Exclusion Order. Once approved, Categorical Exclusion Orders exclude from permit requirements specified types of development in specified geographic areas. The County has already received approval of several Categorical Exclusion Orders that exclude specified types of development from otherwise applicable permit requirements.

Principally Permitted Uses

Although farmhouses and the first intergenerational home are principally permitted in the C-APZ, implementation of the Coastal Act with regard to development designated as principally permitted differs from traditional zoning applications wherein principal uses are sometimes considered to be allowed “by right,” without further review and without any limitations other than the bulk and intensity requirements of the zoning district. Under the Coastal Act, there can only be one principal permitted use designated by zoning districts for purposes of determining appealability to the Commission. However, a proposed development that is designated as principally permitted will still need to be authorized by a coastal permit (unless the proposal is exempt or excluded) through the coastal permit process that evaluates the proposed development for consistency with LCP policies and development standards. For example, if the proposed principally permitted development cannot be found or made to comply with other IP provisions, such as habitat or view protection, it could be denied or conditioned to ensure LCP compliance. Further, though not appealable if it is characterized as development that is principally permitted in the zoning district, it still may be appealable to the Commission if it is appealable based on one of the other bases for appealability set forth in Section 30603 of the Coastal Act.

Finally, as described in the findings regarding the IP’s coastal development permit procedures, the Commission has recommended suggested modifications to increase the public’s awareness of, and ability to participate in, the coastal permitting process, even if the proposed development is development that is principally permitted or eligible for streamlined permit processing, including though local appeals.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Marin County Board of Supervisors conducted a public hearing on July 30, 2013 and approved submitting the proposed amendments to the Marin County Local Coastal Program to the California Coastal Commission. As part of their local action on the subject LCP amendment, on July 30, 2013, the County of Marin Board of Supervisors found, per Title 14, Sections 15250 and 15251(f) of the California Code of Regulations (“CEQA Guidelines,”) that the preparation, approval, and certification of the Local Coastal Program Amendment is exempt from the requirement for preparation of an Environmental Impact Report (EIR) because the California Coastal Commission’s review and approval process has been certified by the Secretary of Resources as being the functional equivalent of the EIR process required by CEQA in Sections 21080.5 and 21080.9 of the Public Resources Code. (See Attachment B for a summary of the local hearing process.)

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) – exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Therefore, local governments are not

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required to prepare an EIR in support of their proposed LCP amendments, although the Commission can and does use any environmental information that the local government submits in support of its proposed LCPA. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be the functional equivalent of the environmental review required by CEQA, pursuant to CEQA Section 21080.5. Therefore the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in approving an LCP amendment submittal, to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b).

The County's LCP Update consists of a Land Use Plan amendment (LUP) and an Implementation Plan (IP) amendment. The Commission previously conditionally certified, with modifications, the LUP Amendment and hereby incorporates its findings on Coastal Act and LUP conformity into this CEQA finding as it is set forth in full.

As discussed herein, the Implementation Plan amendment as originally submitted does not conform with, and is not adequate to carry out, the policies of the conditionally certified LUP. The Commission has, therefore, modified the proposed Implementation Plan to include all feasible measures to ensure that such environmental impacts of new development are minimized to the maximum extent feasible. These modifications represent the Commission's detailed analysis and thoughtful consideration of all public comments received, including with regard to potential direct and cumulative impacts of the proposed IP amendments, as well as potential alternatives to the proposed amendment, including the no project alternative. As discussed in the preceding sections, the Commission's suggested modifications bring the proposed amendment into conformity with the conditionally certified LUP and represent the most environmentally protective alternative. As modified, the Implementation Plan code provisions and zoning maps carry out the policies and programs in the LUP by indicating which land uses are appropriate in each part of the Coastal Zone.

The IP also contains specific requirements that apply to development projects and detailed procedures for applicants to follow in order to obtain a coastal permit. Thus, future individual projects would require coastal development permits, issued by the County of Marin, and in the case of areas of original jurisdiction, by the Coastal Commission. Throughout the coastal zone, specific impacts to coastal resources resulting from individual development projects are assessed through the coastal development review process; thus, any individual project will be required to undergo environmental review under CEQA. Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts.

ATTACHMENT A
SUMMARY OF COUNTY ZONING DISTRICTS

The fourteen zoning districts, their intended purpose, and some of their proposed allowed land uses, are as follows:

- Coastal Agricultural and Resource-Related Districts: Section 22.62.060 states that the purpose of these three zoning districts is to protect agricultural land, continued agricultural uses and the agricultural economy by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, and prohibiting uses that are incompatible with long-term agricultural production, among others.
 - Coastal Agricultural Production Zone (C-APZ): The intent of this district is to preserve privately owned agricultural lands that are suitable for land-intensive or land-extensive agricultural production. Principally permitted uses include Agricultural production, Farmhouse, and Agricultural Worker Housing; permitted uses include Home occupations; conditional uses include Mineral resource extraction; and uses not allowed include Residential second units.
 - Coastal Agriculture, Residential Planned (C-ARP): This district provides flexibility in lot size and building locations to concentrate development to maintain the maximum amount of land for agricultural use, and to maintain the visual, natural resource and wildlife habitat values of subject properties and surrounding areas. Principally permitted uses include Agricultural production, Single-family dwellings, and Agricultural product sales facilities of under 500 square feet; permitted uses include Agricultural processing uses within structures of under 5,000 square feet; conditional uses include Schools; and Agricultural Intergenerational housing is not allowed.
 - Coastal Open Area (C-OA): This district provides for open space, outdoor recreation, and other open lands, including areas particularly suited for park and recreational purposes, access to beaches, natural drainage channels, and areas that serve as links between major recreation and open space reservations. Principally permitted uses include Agricultural accessory activities and structures; permitted uses include Agricultural production; conditional uses include Campgrounds; and uses not allowed include Waste disposal sites.
- Coastal Residential Districts: Section 22.62.070 describes the purpose of the six residential zoning districts, as follows:
 - Coastal Residential, Agricultural (C-RA): This district provides areas for residential use within the context of small-scale agricultural and agriculturally-related uses, subject to specific development standards. Principally permitted uses include Agricultural production and Single-family dwellings; permitted uses include Home occupations and Bed and Breakfasts of three or fewer guest rooms; conditional uses include the Sale of agricultural products grown on site; and uses not allowed include Multi-family dwellings.
 - Coastal Residential, Single-Family (C-R1): This district provides areas for detached single-family homes, similar and related compatible uses. Principally permitted uses include Single-family dwellings and Affordable housing; permitted

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- uses include Agricultural production; conditional uses include Libraries and Museums; and uses not allowed include Agricultural processing facilities.
- Coastal Residential, Single-Family Planned (C-RSP): This district provides areas for detached single-family homes, similar and related compatible uses, which are designed in compliance with Marin County LCP policies, with maximum compatibility with sensitive site characteristics. Principally permitted uses include Single-family dwellings and Residential second units; permitted uses include Commercial gardening; conditional uses include Community Centers; and uses not allowed include Agricultural worker housing and Two-family dwellings.
 - Coastal Residential, Single-Family Planned Seadrift Subdivision (C-RSPS): This district is applied to areas within the Seadrift Subdivision intended for detached single-family homes, similar and related compatible uses, which are designed for maximum compatibility with sensitive site characteristics unique to the Seadrift sandpit and lagoon, Bolinas lagoon, and the beaches adjacent to the subdivision. Principally permitted uses include Single-family dwellings and Residential second units; permitted uses include Home occupations; and conditional uses include Public Parks and Playgrounds. Uses not allowed include Agricultural production and Multi-family dwellings.
 - Coastal Residential, Two-Family (C-R2): This district provides areas for attached two-family housing units, detached single-family homes consistent with Land Use Plan Policy C-CD-26, and similar and related compatible uses. Principally permitted uses include Two-family dwellings and Affordable housing; permitted uses include Home occupations; conditional uses include Commercial gardening and Plant nurseries; and uses not allowed includes Equestrian facilities.
 - Coastal Residential, Multiple Planned (C-RMP): This district provides for areas for varied types of residential development, and similar and related compatible uses, designed for maximum compatibility with sensitive site characteristics. Principally permitted uses include Single-family and Multi-family dwellings; permitted uses include Bed and Breakfasts of three or fewer guest rooms; conditional uses include Child day-care centers; and uses not allowed include Agricultural processing facilities.
 - Coastal Commercial and Mixed-Use Districts Section 22.62.080 describes the purpose of the five commercial and mixed-use zoning districts, as follows:
 - Coastal Village Commercial/Residential (C-VCR): This district is intended to: maintain the established historical character of village commercial areas; promote village commercial self-sufficiency; foster opportunities for village commercial growth, including land uses that serve coastal visitors; maintain a balance between resident-serving and non-resident-serving commercial uses; protect established residential, commercial, and light industrial uses; and maintain community scale. Principally permitted uses include Single-family dwellings, Restaurants of 40 patrons or less, and General merchandise retail stores; permitted uses include Plant nurseries and Business support services; conditional uses include Bars and drinking places, Used auto sales, and Construction yards; and uses not allowed include Homeless shelters, Tobacco retail establishments, and Residential second units.
 - Coastal Limited Roadside Business (C-H1): This district is intended for rural

areas suitable for businesses that serve the motoring public. Principally permitted uses include Affordable housing and Restaurants serving 40 patrons or less; permitted uses include ATM machines; conditional uses include bed and breakfasts of up to five guest rooms; and uses not allowed include banks and financial services.

- Coastal Planned Commercial (C-CP): This district is intended to create and protect areas suitable for a full range of commercial and institutional uses. Principally permitted uses include restaurants of 40 patrons or less; permitted uses include mariculture/aquaculture; conditional uses include beverage production facilities; and uses are not allowed include golf courses/country clubs.
- Coastal Residential/Commercial Multiple Planned (C-RMPC): This district is intended to create and protect areas suitable for a mixture of residential and commercial uses. Principally permitted uses include grocery stores; permitted uses include business support services; conditional uses include bars and drinking places; and uses not allowed include tobacco retail establishments.
- Coastal Resort and Commercial Recreation (C-RCR): The C-RCR zoning district is intended to create and protect areas for resort facilities, with emphasis on public access to recreational areas within and adjacent to developed areas. Principally permitted uses include hotels and motels; permitted uses include telecommunications facilities; conditional uses include transit stations; and uses not allowed include offices.

**ATTACHMENT B
SUMMARY OF LOCAL HEARING PROCESS**

In October 2008 the Board of Supervisors approved a work program and schedule to prepare amendments to the Marin County LCP. The update process included extensive input from the public. There were over 50 meetings and hearings open to the public regarding the LCPA. Comments and participation were sought from County residents, California Native American Indian tribes, public agencies, public utility companies, and various local community groups and organizations. The LCPA was referred to the California Coastal Commission, National Park Service, California State Department of Fish and Game, public water agencies, the Federated Indians of Graton Rancheria, and a number of other public agencies.

Beginning on March 16, 2009, the Marin County Planning Commission conducted the first of a series of 19 public issue workshops to obtain the public's input on issues of concern in the development of the LCPA. Input was obtained through public meetings on April 27, May 26, June 22, July 13, July 27, August 24, September 28, October 26, and November 23, 2009, and January 25, February 8, March 8, April 12, April 26, June 14, June 28 and July 29, 2010 and through correspondence and consultations through that period. Written correspondence was placed on the LCPA website and made available to all.

A preliminary Public Review Draft of the LCPA was released on June 2011, which was followed by four community workshops that were held on July 12, 18, 20 and 25 to present the Public Review Draft to the public. In conjunction with the release of the Public Review Draft for the LCPA Amendment, the Board of Supervisors and Planning Commission met on June 28, 2011, and adopted a schedule for public hearings to obtain public comment on the LCPA.

Beginning on August 31, 2011, a series of public hearings were held by the Planning Commission to receive testimony on the LCPA and to provide the public and affected agencies and districts with the maximum opportunity to participate in the LCP Amendment process, consistent with California Code of Regulations Sec. 13515 and Public Resources Code Sec. 30503. Public hearings were held on September 19, October 10 and 24, November 7, and December 1, 2011, and January 9 and 23, 2012. Oral and written comments were presented and considered at the hearings.

Following the close of the November 7, 2011, public hearing, the Commission directed that the June 2011 Public Review Draft be revised to reflect the initial recommendations of the Commission at that time. These revisions were presented in the January 2012 Public Review Draft, which was made available for the January 9 and 23, 2012 public hearings. At the close of the January 23, 2012 public hearing, the Planning Commission directed staff to compile all the changes made by the Commission in a new, complete document entitled the "Planning Commission Recommended Draft."

Prior to the February 13, 2012 hearing, the Commission was provided with the complete contents of the Local Coastal Program consisting of the following documents: (1) Marin County Planning Commission Recommended Local Coastal Program Draft LUP Amendments (February, 2012); and (2) Marin County Planning Commission - Recommended Proposed Development Code

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Amendments (February 2012). Land Use and Zoning Maps; and Appendices had been previously distributed in June 2012. Both Planning Commission Recommended Amendment documents were also mailed to interested parties who had requested them. All documents were additionally made available to the public on the LCPA website at www.MarinLCP.org.

On February 13, 2012 the Marin County Planning Commission approved the LCPA and directed staff to incorporate all changes into the Planning Commission Approved Draft, Recommended to the Board of Supervisors, dated February 13, 2012. This draft document was mailed to interested parties, posted in all Marin County libraries, posted on the MarinLCP.org website, and available to the public at the Marin County Community Development Agency front reception desk.

Beginning on October 2, 2012, a series of public hearings were held by the Board of Supervisors to receive testimony on the LCPA and to provide the public and affected agencies and districts with the maximum opportunity to participate in the update to the LCPA, consistent with California Code of Regulations Sec. 13515 and Public Resources Code Sec. 30503. Public hearings were held on November 13 and December 11, 2012, and January 14, February 26, April 16, and July 30, 2013. Oral and written comments were presented and considered at the hearings.

MARIN COUNTY LOCAL COASTAL PROGRAM Development Code Amendments

Board of Supervisors Adopted ~~Draft~~

July 30, 2013

~~Important Note:
These amendments are not yet certified by the
California Coastal Commission~~

Marin County Board of Supervisors

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Prepared by the Marin County Community Development Agency

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Chapter 22.32 – Standards for Specific Land Uses

NOTE: This version of Development Code Chapter 22.32 combines the current land use standards that apply countywide (last amended 1/24/2012) with the ~~proposed~~ LCPA land use standards specific to the Coastal Zone. The section titles for the coastal-specific provisions are denoted with “(Coastal)” and highlighted in green. All standards listed below are applicable in the coastal zone, except that the standards denoted with (Coastal) do not apply outside the coastal zone, and those standards denoted with (non-Coastal) do not apply in the coastal zone. In addition, this Chapter specifies permitting requirements that may be applicable for particular land uses, including Design Review, Sign Permits, and Second Unit Permits. In all cases, these permit requirements apply independent of and in addition to the Coastal Permit requirements identified in Chapter 22.68 for development (coastal), as defined in Chapter 22.130 of Article VIII, proposed to be undertaken within the Coastal Zone.

Sections:

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- 22.32.170 – Tobacco Retail Establishments
- 22.32.180 – Wind Energy Conversion Systems (WECS) (non-Coastal)

22.32.010 – Purpose of Chapter

This Chapter provides site planning and development standards for land uses that are allowed by Article II (Zoning Districts and Allowable Land Uses) and Article V (Coastal Zone Development and Resource Management Standards) in individual or multiple zoning districts (e.g., in residential, commercial, and industrial districts and in residential and commercial, and/or in commercial and industrial districts).

22.32.020 – Accessory Retail Uses

The retail sales of food and other products may be allowed in a restaurant, store, or similar facility within a health care, hotel, office, or industrial complex for the purpose of serving employees or customers in compliance with this Section.

- A. **Limitation on use.** Accessory retail uses shall be limited to serving employees and customers in pharmacies, gift shops, and food service establishments within institutional uses (e.g., hospitals and schools); convenience stores, gift shops, and restaurants/bars within hotels and resort complexes; restaurants within office and industrial complexes; and/or other uses determined to be similar by the Director.
- B. **External appearance.** There shall be no external evidence (e.g., signs, windows with merchandise visible from streets or sidewalks external to the site, etc.) of any commercial activity other than the primary use of the site (except in the case of a restaurant/bar within a hotel).

22.32.021 – Agricultural Accessory Activities (Coastal)

The standards of this Section shall apply to agricultural accessory activities defined in Section 22.130.030.

(Coastal) In the C-APZ, C-ARP and C-OA zones agricultural accessory activities shall be accessory and incidental to, in support of, ~~and compatible with,~~ and, within the C-APZ zone, necessary for agricultural production, and may be allowed as a Principal Permitted Use, ~~or, Where applicable under Chapter 22.68 (Coastal Permit Requirements), agricultural accessory activities within the C-APZ zone may be exempt from coastal permit requirements.~~

22.32.022 – Agricultural Accessory Structures (Coastal)

The standards of this Section shall apply to agricultural accessory structures defined in Section 22.130.030.

(Coastal) In the C-APZ, C-ARP and C-OA zones agricultural accessory structures shall be accessory and incidental to, in support of, ~~and compatible with,~~ and, within the C-APZ zone, necessary for agricultural production, and may be allowed as a Principal Permitted Use, ~~or, Where applicable under Chapter 22.68 (Coastal Permit Requirements), agricultural accessory structures within the C-APZ zone may be exempt from coastal permit requirements.~~

22.32.023 – Agricultural Homestays (Coastal)

The standards of this Section shall apply to agricultural homestays defined in Section 22.130.030.

(Coastal) ~~Agricultural Homestays are subject to the requirements of this Section. The intent of~~

~~these provisions is to ensure that the Homestay is~~ shall be accessory and incidental to, in support of, and compatible with ~~the property's~~ agricultural production.

A. Permit requirements. Agricultural Homestays are allowable in the zoning districts and with the permit requirements determined by Article V (Coastal Zones—Permit Requirements and Development Standards), including the development standards specified in Chapter 22.65.040 for Agricultural Homestays within the C-APZ district.

B. Land Use Requirements. An Agricultural Homestay shall:

1. ~~Shall be~~ Have no more than five guest rooms and host no more than 15 registered guests,
2. Provides overnight transient accommodations,;
3. ~~Shall offer~~ Offer meals only to overnight guests as an incidental, and not as the primary, function of the establishment,
4. ~~Is be~~ located on, and ~~is be a~~ 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~~ Operate within an otherwise allowable agricultural dwelling unit and not within an additional separate structure ~~the same structure as an otherwise permitted farmhouse or intergenerational home,~~
6. ~~Shall be~~ Be limited to one per legal lot,; and
7. Shall not be allowed if there is already a bed and breakfast on the lot.

C. Site requirements. ~~Except for minimum lot size requirements, the~~ The proposed site shall conform to all standards of the applicable zoning district.

D. Appearance. The exterior appearance of the structure used for the Agricultural Homestay shall maintain a rural character consistent with the surrounding environment and the farm buildings on the property.

E. Limitation on services provided. The services provided guests by the Agricultural Homestay shall be limited to the rental of bedrooms and the provision of meals at any time to registered guests. The price of food shall be included in the overnight transient occupancy accommodation. There shall be no separate/additional food preparation facilities for guests. Homestay guests may also participate in agricultural activities at the discretion of the homestay operator.

F. Business license required. A current business license shall be obtained/posted, in compliance with [Title 5, Chapter 5.54](#) (Business Licenses) of the County Code.

G. Occupancy by permanent resident required. All Agricultural Homestays shall have one household in permanent residence.

H. Transient Occupancy Tax. Agricultural Homestays shall be subject to the Transient Occupancy Tax, in compliance with [Chapter 3.05](#) (Uniform Transient Occupancy Tax) of the County Code.

I. Signs. Signs shall be limited to one on-site sign not to exceed four square feet in area and shall

be installed/maintained in compliance with Chapter 22.64.100(A)(5)~~28~~ (Signs). Signs shall also be installed/maintained in compliance with Chapter 22.28 in addition to and independent of Coastal Permit requirements.

- J. Fire safety.** The Agricultural Homestay shall meet all of the requirements of the County Fire Department or local Fire Protection District, as applicable.
- K. Parking.** On-site parking shall be provided in compliance with ~~24.04.330 through .400~~ 22.64.150 (Transportation). Parking shall also be provided in compliance with 24.04.330 through .400 (Parking and Loading) of the County Code in addition to and independent of Coastal Permit requirements.
- L Sewage disposal.** Any on-site sewage disposal shall be provided in compliance with 22.64.140 (Public Facilities and Services). Sewage disposal shall also be provided in compliance with Title 18 (Sewers) of the County Code in addition to and independent of Coastal Permit requirements.

~~{BOS app. 10/2/2012, 11/13/2012}~~

22.32.023 – Agricultural Worker Housing (non-Coastal)

The standards of this Section shall apply to agricultural worker housing outside the coastal zone. The intent of these provisions is to allow sufficient numbers of agricultural worker housing units that are necessary to support agricultural operations and that are consistent with the applicable provisions of State law.

- A. Permitted use, zoning districts.** Agricultural worker housing providing accommodations for 12 or fewer employees shall be considered a principally-permitted agricultural land use in the following zoning districts: A2, A3 to A60, ARP, ~~C-APZ, O-A, and C-OA~~, and are allowed by Articles II (Zoning Districts and Allowable Land Uses) ~~and V (Coastal Zone Development and Resource Management Standards).~~

B. Limitations on use:

- 1. Density.** The maximum density shall not exceed that allowed in the underlying zoning district which governs the site. Agricultural worker housing that exceeds the maximum density may be allowed only in A2, A3 to A60, ARP, and ~~C-ARP~~ zoning districts subject to Use Permit approval in compliance with Chapter 22.48 (Use Permits).

For purposes of determining compliance with the density requirements for agricultural worker housing, each agricultural worker housing that provides accommodations for six or fewer employees shall be considered equivalent to one dwelling unit, with the exception that agricultural worker housing providing accommodations for 7 to 12 employees shall not be counted for purposes of computing residential density. For purposes of this section, family members are not included in the determination of the number of employees.

- 2. Referrals.** Prior to making a determination that agricultural worker housing which exceeds the maximum density for a specific site is necessary to support agriculture, the review authority may consult with such individuals or groups with agricultural expertise as appropriate for a recommendation.
- 3. Temporary mobile home.** Any temporary mobile home not on a permanent

foundation and used as living quarters for 7 to 12 agricultural workers is permitted subject to the requirements of the State Department of Housing and Community Development. Any temporary mobile home providing living quarters for 6 or fewer agricultural workers requires Use Permit approval, is counted as one dwelling unit for purposes of compliance with the zoning district's density limitations, and shall be subject to the requirements of the State Department of Housing and Community Development.

22.32.024 – Agricultural Intergenerational Homes (Coastal)

The standards of this Section shall apply to agricultural intergenerational homes defined in Section 22.130.030.

~~(Coastal) Intergenerational Housing in the Coastal Zone is subject to the requirements of this Section.~~ Agricultural Intergenerational Homes shall be accessory and incidental to, in support of, compatible with, and necessary for agricultural production. The intent of these provisions is to allow intergenerational homes using 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. Agricultural Intergenerational housing is considered a component type of the agricultural activities of the property dwelling unit.

A. Permitted use, zoning districts. Up to two Agricultural intergenerational homes in addition to the farmhouse may be permitted in the C-APZ, consistent with Table 5-1-a in Chapter 22.62 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, including any existing homes (i.e., a minimum of 120 acres for a Farmhouse plus one intergenerational home and a minimum of 180 acres for a Farmhouse plus two intergenerational homes).~~

B. Limitations on use. ~~Intergenerational homes shall not be subdivided or sold separately from the primary agricultural legal lot. Occupants must be members of the farm operator or owner's immediate family. Occupants shall not be required to be actively and directly engaged in the agricultural use of the land. In cases where an intergenerational home is no longer needed for a family member, the unit may also be occupied by agricultural workers or used as an agricultural homestay.~~

C. Permit Requirements. Agricultural intergenerational homes are allowable in the C-APZ zoning districts and with the permit requirements determined by Article V (Coastal Zones—Permit Requirements and Development Standards), including the development standards specified in Chapter 22.65.040.

D. One Intergenerational Home: ~~One intergenerational home on a qualifying lot is a principal permitted use in the C-APZ.~~

E. Second Intergenerational Home: ~~A second intergenerational home occupying a lot is a conditional use, subject to Use Permit approval in compliance with Chapter 22.48 (Use Permits).~~

F. Restrictive Covenant. Agricultural Intergenerational housing requires the preparation and recordation 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 ~~compliance with 22.32.024.B~~ 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~~ rest of the agriculturally zoned legal lot. As a condition of permit approval for an intergenerational home, future land division of the legal lot containing the intergenerational home is prohibited except that lease of the rest of the legal lot at a level of agricultural use that will sustain the agricultural capacity of the site is not prohibited.
4. Language demonstrating that the restriction shall run with the land and shall be binding on all heirs, successors and assigns to the property, and its provisions shall be enforced by the County of Marin.
5. Assurance that the owner of the intergenerational home shall be actively and directly engaged in agricultural use of the agriculturally zoned legal lot and that the use of the agriculturally zoned legal lot shall remain confined to agriculture. "Actively and directly engaged" means making day-to-day management decisions for the agricultural operation and being directly engaged in production of agricultural commodities for commercial purposes on the property. "Agricultural use" shall be defined as: breeding, raising, pasturing, and grazing livestock of every nature and description for the production of food and fiber; breeding and raising bees, fish, poultry, and other fowl; planting, raising, harvesting, and producing agricultural, aquacultural, horticultural, and forestry crops and products of every nature and description; and the processing, storage, and sale, including direct retail sale to the public, of crops and products harvested and produced principally on the farm; further provided, however, that all agricultural uses and activities are consistent with applicable laws, including those of the Local Coastal Program.

~~**G. Exceptions.** Intergenerational homes shall not be subject to the requirements for a Master Plan, Agricultural Production and Stewardship Plan or a permanent agricultural conservation easement.~~

~~{BOS app. 10/2/2012, 11/13/2012, 1/15/2013}~~

22.32.025 – Airparks

Airparks may be located where allowed by Article II (Zoning Districts and Allowable Land Uses) and Article V (Coastal Zoning Districts and Allowable Uses) of this Development Code, for business or emergency purposes, subject to the following standards:

- A. **State permit required.** A ~~land~~-Use Permit or exemption shall be obtained from the California Department of Transportation, Division of Aeronautics, and evidence of the permit or exemption shall be presented to the Agency, prior to establishing any airpark.
- B. **Nuisance mitigation.** A proposed airpark shall be located so that neither air or related surface traffic constitute a nuisance to neighboring uses. The applicant shall demonstrate that adequate controls or measures will be taken to mitigate offensive bright lights, dust, noise, or vibration.

Airparks shall not constitute a nuisance resulting from frequency and timing of flights, location of landing area, or departure and approach patterns that conflict with surrounding land uses.

22.32.025 – Farmhouse (Coastal)

The standards of this Section shall apply to farmhouses defined in Section 22.130.030.

(Coastal) The standards of this Section shall apply to farmhouses. Farmhouses shall be accessory and incidental to, in support of, and compatible with agricultural production. The intent of these provisions is to facilitate farmhouses that are integral with and necessary to support agricultural operations and that are consistent with the provisions of the Marin County Local Coastal Program (LCP). In the C-APZ, farmhouses also shall be necessary for agricultural production.

A. ~~Principal permitted use, zoning districts.~~ A farmhouse shall be is a type of agricultural dwelling unit that may be considered a principal permitted agricultural land use where allowed by Article V, Table 5-1 (Coastal Zones – Permit Requirements and Development Standards), and subject to development standards, including those set forth in Section 22.65.040 in the C-APZ zone.

B. ~~Limitations.~~ A farmhouse consists of a building designed for and/or occupied by one family, which includes the farm operator. The farm operator is the property owner or lessee who makes day to day management decisions for the agricultural operation and is directly engaged in the production of agricultural commodities for commercial purposes on the property. Such buildings may include factory built, modular housing units, constructed in compliance with the Uniform Building Code (UBC), and mobile homes/manufactured housing on permanent foundations.

B. Restrictive Covenant. Development of a farmhouse requires recording a restrictive covenant running with the land for the benefit of the County ensuring that the agricultural farmhouse will continuously be maintained as such. The covenant must include, at a minimum, the following:

1. A detailed description of the farmhouse.
2. Assurance that any 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. Language demonstrating that the restriction shall run with the land and shall be binding on all heirs, successors and assigns to the property, and its provisions shall be enforced by the County of Marin.
4. Assurance that the farmhouse will not be divided or sold separately from the rest of the agriculturally zoned legal lot. As a condition of permit approval for a farmhouse, future land division of the legal lot containing the farmhouse is prohibited except that lease of the rest of the legal lot at a level of agricultural use that will sustain the agricultural capacity of the site is not prohibited.
5. Assurance that the owner of the farmhouse shall be actively and directly engaged in agricultural use of the agriculturally zoned legal lot and that the use of the agriculturally zoned legal lot remains confined to agriculture. “Actively and directly engaged” means making day-to-day management decisions for the agricultural operation and being directly engaged in the production of agricultural commodities for commercial purposes on the property. “Agricultural use” shall be defined as: breeding, raising, pasturing, and grazing livestock of every nature and description for the production of food and fiber;

breeding and raising bees, fish, poultry, and other fowl; planting, raising, harvesting, and producing agricultural, aquacultural, horticultural, and forestry crops and products of every nature and description; and the processing, storage, and sale, including direct retail sale to the public, of crops and products harvested and produced principally on the farm; further provided, however, that all agricultural uses and activities are consistent with applicable laws, including those of the Local Coastal Program.

22.32.026 – Agricultural Processing Uses (Coastal)

The standards of this Section shall apply to agricultural processing defined in Section 22.130.030 (“Agricultural Processing”).

For Agricultural and Resource-Related Districts outside the Coastal Zone, see Section 22.08.040.E.

Agricultural processing is allowed as a Principal Permitted Use in the C-APZ zoning district provided it meets all of the standards set forth in Section 22.65.040 ~~the following standards: (1) the building(s) or structure(s) used for processing activities do not exceed an aggregate floor area of 5,000 square feet; (2) with the exception of incidental additives or ingredients, agricultural products to be processed are produced on the same site, or on other agricultural properties located in Marin County that are owned or leased by the processing facility owner or operator; (3) the operator of the processing facility is directly involved in the agricultural production on the property on which the processing facility is located; and (4) sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the processing facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.~~

A Coastal Permit appealable to the Coastal Commission and Use Permit approval is required for an agricultural processing use which exceeds an aggregate floor area of 5,000 square feet or for an agricultural processing use of any size that does not comply with one or more of the four standards listed above.

B. Coastal Permit and Design Review for a processing facility.

1. Any processing facility, regardless of size, shall require a Coastal Permit.
2. Any processing facility shall require Design Review independent of and in addition to the Coastal Permit, unless it satisfies all the following conditions:
 - (a) It qualifies as a Principal Permitted Use;
 - (b) It will be developed and operated wholly within an existing permitted, legal nonconforming, or categorically excluded structure; and
 - (c) Its development will not include any significant alteration of the exterior appearance of the existing structure.

{BOS app. 10/2/2012, 2/26/2013}

22.32.027 – Agricultural Retail Sales Facilities/Farm Stand (Coastal)

(Coastal) The standards of this Section shall apply to the sale of agricultural products as defined in Section 22.130.030 (~~“Sale of Agricultural Products”~~ “Agricultural Retail Sales Facility/Farm Stand”). For Agricultural and Resource-Related Districts outside the Coastal Zone, see Section 22.08.040.F.

The sale of agricultural products is allowed as a Principal Permitted Use in the C-APZ zoning district provided it meets all of the ~~following standards~~ development standards set forth in Section 22.65.040: (1) ~~the building(s) or structure(s), or outdoor areas used for retail sales do not exceed an aggregate floor area of 500 square feet;~~ (2) ~~agricultural products to be sold are produced on the same site, or on other agricultural properties located in Marin County that are owned or leased by the processing facility owner or operator;~~ (3) ~~the operator of the sales facility is directly involved in the agricultural production on the property on which the sales facility is located;~~ and (4) ~~sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the sales facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.~~

A Coastal Permit appealable to the Coastal Commission and a Use Permit approval is required for agricultural retail sales which exceeds an aggregate floor area of 500 square feet or for an agricultural retail sales facility of any size which does not comply with one or more of the four standards listed above.

{BOS app. 10/2/2012, 2/26/2013}

22.32.028 – Agricultural Worker Housing (Coastal)

The standards of this Section shall apply to agricultural worker housing as defined in Section 22.130.030. The intent of these provisions is to permit and encourage the development and use of sufficient numbers and types of agricultural worker housing units ~~as are commensurate with local need necessary~~ to support agricultural operations and in conformance with the applicable provisions of state law. Agricultural worker housing is a type of agricultural dwelling unit.

A. Permitted use, zoning districts. Agricultural worker housing ~~providing accommodations consisting of no more than 36 beds in group living quarters or 12 units or spaces for agricultural workers and their households shall be considered a principal~~ may be a permitted agricultural land use when allowed by Article V, Table 5-1 (Coastal Zones – Permit Requirements and Development Standards), and when found consistent with required development standards, including those specified in Section 22.65.040 in the C-APZ zoning district. Agricultural worker housing providing accommodations consisting of no more than 36 beds in group living quarter or 12 units or spaces for agricultural workers and their households ~~and~~ shall not be included in the calculation of residential density in the following zoning districts: C-ARP, C-APZ, C-RA , and C-OA.

B. Limitations on use:

- 1. Referrals.** Prior to making a determination that agricultural worker housing ~~which exceeds the maximum density~~ for a specific site is necessary to support agriculture, the review authority may consult with such individuals or groups with agricultural expertise as appropriate for a recommendation.
- 2. Temporary mobile home.** Temporary mobile homes not on a permanent foundation and used as living quarters for five or more farmworkers and their households that is otherwise LCP consistent is also permitted subject to the requirements of the State Department of Housing and Community Development.
- 3. Annual Verification.** All agricultural worker housing shall require the submittal of an annual verification form to the County.

- 4. Licensing.** Licensing by the Department of Housing and Community Development and

compliance with the Employee Housing Act are required for all Agricultural Worker Housing for five or more employees and their households.

- 5. Restrictive Covenant.** Agricultural Worker housing requires recording a restrictive covenant running with the land for the benefit of the County ensuring that the agricultural worker housing will continuously be maintained as such, or, if no longer needed, for non-dwelling agricultural production related uses. The covenant must include, at a minimum, the following:

- (a) A detailed description of the dwelling units or spaces.
- (b) 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.
- ~~(c) Terms or conditions, if any, under which the deed may be modified or removed.~~
- (d) Language demonstrating that the restriction shall run with the land and shall be binding on all heirs, successors and assigns to the ~~p~~Property, and its provisions shall be enforced by the County of Marin.

22.32.030 – Animal Keeping

The standards of this Section shall apply to the keeping of animals in specified zoning districts and their Coastal Zone counterparts, in addition to the standards in Chapter 8.04 (Animal Control) of the County Code.

A. General standards. The following general standards shall apply:

- 1. Requirements.** All animal keeping activities shall comply with the general requirements in Tables 3-6 and 3-7; and
- 2 Household pets.** Household pets are allowed in all zoning districts.

TABLE 3-6
GENERAL REQUIREMENTS FOR THE KEEPING OF SMALL ANIMALS
(Chickens, Ducks, Exotics, Geese, Guinea Fowl, Pea-fowl,
Rabbits, Roosters, and Similar Animals)

Zoning Districts	Applicable Standards	Standards
A2, A3 to A60 ARP, APZ	All animals allowed subject to Standard 4	1. Maximum 12 animals, unless approved by a Use Permit.
RSP, RMP, RMPC	All standards apply	

RA and RE RR, R1, R2, R3	All standards apply	<p>2. In R zoning districts, the keeping of small animals shall be an accessory use to the primary residential use of the parcel.</p> <p>3. Roosters, quacking ducks, geese, guinea fowl, and pea fowl are not permitted</p> <p>4. A Use Permit is required for the keeping of exotic animals outdoors in all zoning districts where permitted.</p>
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TABLE 3-7
GENERAL REQUIREMENTS FOR THE KEEPING OF LARGE ANIMALS, HORSES,
DONKEYS, MULES, AND PONIES

(Cows, Exotics, Goats, Pigs, Sheep, Llamas & Similar Animals)

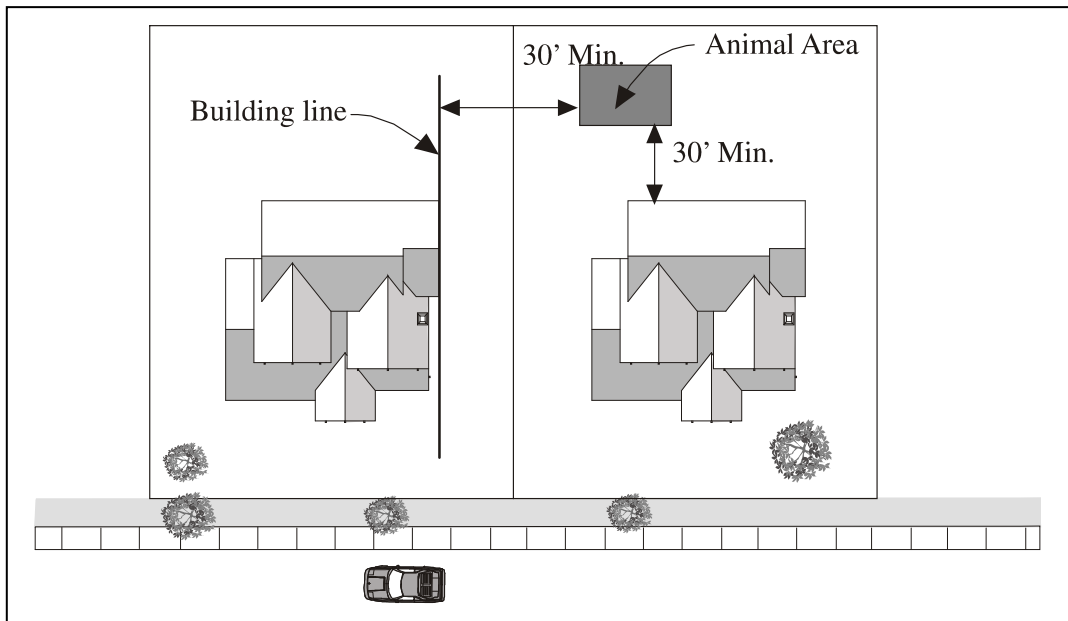
Zoning Districts	Allowed Animals and Applicable Standards	Standards
A3 to A60 and APZ to ARP	All animals allowed subject to standards 1, 4, and 5	1. Livestock sales/feed lots and stockyards require a Use Permit in all zoning districts where permitted.
A2, RSP, RMP, RMPC	All animals allowed and all standards apply.	2. Livestock operations for grazing and large animals are allowed in the RSP, RMP, and RMPC zoning districts only where the site is three acres or more, and only with a Use Permit. 3. The keeping of livestock and large animals is allowed in compliance with Section 22.32.030.B. 4. A Use Permit is required for the keeping of exotic animals outdoors in all zoning districts where permitted. 5. A Use Permit is required for keeping more than five horses, donkeys, mules, or ponies within the APZ zoning district where these are the primary or only animals raised.
RA	All animals allowed and all standards apply.	1. Maximum: Three animals unless approved by a Use Permit. 2. Large dairy animals for a dairy operation allowed in RA zoning district only on parcels of five acres or more. 3. Equestrian facilities require a Use Permit. 4. The keeping of livestock and large animals is allowed in compliance with Section 22.32.030.B. 5. A Use Permit is required for the keeping of exotic animals outdoors in all zoning districts where permitted.
RR, R1, R2, R3, RE	Allowed animals limited to donkeys, horses, mules and ponies, subject to all standards.	1. Only donkeys, horses, mules and ponies allowed in compliance with Section 22.32.030.B. 2. In R zoning districts, the keeping of animals shall be an accessory use to the primary residential use of the parcel.
OA	All animals allowed and all standards apply.	1. Large animals allowed in conjunction with dairies and grazing. Horses, donkeys, mules, and ponies allowed in compliance with Section 22.32.030.B. 2. A Use Permit is required for the keeping of exotic animals outdoors in all zoning districts where permitted

B. Standards for livestock, horses, donkeys, mules, and ponies The following standards, which do not apply in the A-3 to A-60, ARP or APZ zoning districts, shall apply to the

keeping of livestock, horses, donkeys, mules, and ponies in addition to those in 22.32.030.A (General Standards), above:

1. **Location of animals and structures.** No animal or any structure for animals shall be located closer than 30 feet to:
 - a. The public right-of-way upon which the parcel faces;
 - b. Any dwelling;
 - c. Any building line on an adjoining parcel (the boundary extended from the nearest edge of a primary or accessory structure or the required setback line on the adjoining parcel, whichever is closer to the property line). (See Figure 3-13); and
 - d. Additionally, no animal or any structure for animals shall be located in a required setback area, or closer than 10 feet to a property line.

FIGURE 3-13
LOCATION OF ANIMALS AND ANIMAL STRUCTURES



2. **Minimum area and slope standards.** The keeping of livestock, horses, donkeys, mules, and ponies shall comply with the following standards:
 - a. The minimum lot area for the keeping of one animal shall be 15,000 square feet for properties with one percent through 15 percent slope. For each percent of slope over 15 percent, the minimum lot area shall be increased by 1,000 square feet.
 - b. For each additional animal, an additional 5,000 square feet of lot area shall be provided.
 - c. No animals shall be allowed on slopes exceeding 50 percent.

3. **Erosion and drainage control plan required.** An erosion and drainage control plan shall be submitted and approved by the County Department of Public Works for the keeping of animals on sites over 25 percent in slope.
4. **Site maintenance.** The property owner shall submit a manure management plan that should require periodic manure collection and composting or removal of manure from the premises, subject to the approval of the County Health Officer.
5. **Water supply.** An adequate supply of fresh water shall be available to animals at all times, subject to the approval of the County Health Officer.
6. **Exceptions by Use Permit.** The keeping of horses, donkeys, mules, or ponies may be allowed with Use Permit approval, in compliance with Chapter 22.48 (Use Permits), in any zoning district not listed in this Section or for an exception from any of the standards.
7. **Existing uses conforming.** Any residential property where horses, donkeys, mules, or ponies are legally kept as of the effective date of this Development Code shall be deemed to be conforming. Any expansion of use shall be subject to the provisions of this Section.

22.32.040 – Bed and Breakfast Inns

Bed and breakfast inns (B&Bs) are subject to the requirements of this Section. The intent of these provisions is to ensure that compatibility between the B&B and any adjoining zoning district or use is maintained or enhanced.

- A. **Permit requirement.** B&Bs are allowable in the zoning districts and with the permit requirements determined by Articles II (Zoning Districts and Allowable Land Uses), and V (Coastal Zone Development and Resource Management Standards).
- B. **Site requirements.** Except for minimum lot size requirements, the proposed site shall conform to all standards of the applicable Residential, Commercial, Coastal, or Agricultural zoning district.
- C. **Appearance.** The exterior appearance of the structure used for the B&B shall maintain single-family residential or, in the case of B&Bs on agricultural land, rural farm, characteristics.
- D. **Limitation on services provided.** The services provided guests by the B&B shall be limited to the rental of bedrooms and the provision of breakfast and light snacks for registered guests. There shall be no separate/additional food preparation facilities for guests.

No receptions, private parties, retreats, or similar activities, for which a fee is paid shall be allowed.

- E. **Business license required.** A current business license shall be obtained/posted, in compliance with Title 5, Chapter 5.54 (Business Licenses) of the County Code.
- F. **Occupancy by permanent resident required.** All B&Bs shall have one household in permanent residence.
- G. **Transient Occupancy Tax.** B&Bs shall be subject to the Transient Occupancy Tax, in

compliance with Chapter 3.05 (Uniform Transient Occupancy Tax) of the County Code.

- H. Signs.** Signs shall be limited to one on-site sign not to exceed four square feet in area and shall be installed/maintained in compliance with Chapter 22.64.100(A)(5) (Signs) Signs shall also be installed/maintained in compliance with Chapter 22.28 in addition to and independent of Coastal Permit requirements..
- I. Fire safety.** The B&B shall meet all of the requirements of the County Fire Department.
- J. Parking.** On-site parking shall be provided in compliance with 22.64.150 (Transportation). Parking shall also be provided in compliance with 24.04.330 through .400 (Parking and Loading) of the County Code in addition to and independent of Coastal Permit requirements.
- K. Sewage disposal.** Any on-site sewage disposal shall be provided in compliance with 22.64.140 (Public Facilities and Services). Sewage disposal shall also be provided in compliance with Title 18 (Sewers) of the County Code in addition to and independent of Coastal Permit requirements.

22.32.050 – Child Day-Care Facilities

This Section establishes standards for the County review of child day-care facilities, in conformance with State law (Health and Safety Code Section 1596.78), including the limitations on the County's authority to regulate these facilities.

These standards apply in addition to all other applicable provisions of this Development Code and any requirements imposed by the California Department of Social Services through its facility licensing procedures. Licensing by the Department of Social Services is required for all child day-care facilities.

- A. Applicability.** Where allowed by Article II (Zoning Districts and Allowable Land Uses) and Article V (Coastal Zoning Districts and Allowable Land Uses) child day-care facilities shall comply with the standards of this Section. As provided by State law (Health and Safety Code Sections 1596.78, et seq.), small and large family day-care homes are allowed within any single-family residence located in an agricultural or residential zoning district. In the coastal zone, small and large family day-care homes must be within otherwise allowable dwellings and not within additional separate structures. Child day-care centers are allowed in the zoning districts determined by Article II (Zoning Districts and Allowable Land Uses), subject to Use Permit approval, in compliance with Chapter 22.48 (Use Permits), and all of the standards in Subsection D, below.

These standards apply in addition to all other applicable provisions of this Development Code and any requirements imposed by the California Department of Social Services. Licensing by the Department of Social Services is required for all child day-care facilities. A California Department of Social Services license for a child day-care facility shall be obtained and evidence of the license shall be presented to the Agency prior to establishing any child day-care facility.

- B. Definitions.** Definitions of the child day-care facilities regulated by this Section are in Article VIII (Development Code Definitions) under “Child Day-Care Facilities”.
- C. Large family day-care homes.**

- 1. Permit requirement.** A large family day-care home shall require the approval of a

Large Family Day-care Permit by the Director.

2. **Standards for large family day-care homes.** As allowed by Health and Safety Code Sections 1597.46 et seq., a large family day-care home shall be approved if it complies with the criteria for Large Family Day-care Permit in Chapter 22.58 of this Development Code.

D. Child day-care centers.

1. **Permit requirement.** A child day-care center shall require approval of a Use Permit in compliance with Chapter 22.48 (Use Permits).
2. **Standards for child day-care centers.** The following standards apply to child day-care centers in addition to the standards in Subsection 22.32.050.C.2.
 - a. **Fencing.** A six-foot high fence or wall shall be constructed on all property lines or around the outdoor activity areas, except in the front yard or within a traffic safety visibility area or where there would be significant impacts to coastal resources, including public views. All fences or walls shall provide for safety with controlled points of entry in compliance with 22.20.050 (Fencing and Screening Standards). In the coastal zone, all fences and walls shall also comply with Chapter 22.64.045(2) (Fencing and Similar Structure Standards).
 - b. **Outdoor lighting.** On-site exterior lighting shall be allowed for safety purposes only, shall consist of low wattage fixtures, and shall be directed downward and shielded, subject to the approval of the Director.
 - c. **Swimming pools/spas prohibited.** No swimming pool/spa shall be installed on the site after establishment of the child day-care center, due to the high risk and human safety considerations. Any pool/spa existing on the site prior to application for approval of a child day-care center shall be removed prior to establishment of the use, unless the Director determines that adequate, secure separation exists between the pool/spa and the facilities used by the children.

22.32.060 – Cottage Industries

- A. **Limitation on use.** Cottage industries shall be limited to activities involving the design, manufacture, and sale of the following products and services, or others determined by the Director to be similar. See 22.02.020.E (Rules of Interpretation—Allowable Uses of Land).
 1. Antique repair and refinishing;
 2. Baking and the preparation of food specialties for consumption at locations other than the place of preparation;
 3. Catering;
 4. Ceramics;
 5. Cloth decorating by batik, dyeing, printing, silk screening, or other similar techniques;
 6. Clothing production, including dressmaking, etc.;

7. Furniture and cabinet making and other woodworking;
8. Jewelry making;
9. Painting and sculpture;
10. Photography;
11. Sewing;
12. Weaving; and
13. Other handicrafts.

- B. Permit requirement.** Use Permit approval, in compliance with Chapter 22.48 (Use Permits), is required for a cottage industry. During review of the application, the Zoning Administrator shall consider the adequacy of on- and off-site parking, the degree and intensity of any proposed retail sales, and shall first find that the proposed cottage industry would not result in any adverse impacts on the neighborhood. In the coastal zone, cottage industries must be within otherwise allowable dwellings or accessory structures.
- C. Equipment, noise.** Approved cottage industries may use mechanical equipment or processes as necessary, provided that no noise shall be audible beyond the property line of its site.
- D. Employees.** A cottage industry established in a dwelling or a detached accessory structure may have employees as authorized by the review authority, provided the number of employees does not exceed limitations established in an adopted community or specific plan.
- E. Other codes.** Cottage industries shall comply with all applicable health, sanitary, and fire codes, and shall obtain a County Business License.

22.32.062 – Educational Tours (Coastal)

(Coastal) Limitations on use. As defined in Section 22.130.030, educational tours are interactive excursions for groups and organizations for the purpose of informing them of the unique aspects of a property, including agricultural operations and environmental resources. In the C-APZ, ~~C-ARP, and C-OA~~ zoning districts, not-for-profit educational tours operated by non-profit organizations or the owner/operator of the agricultural operation are a principal permitted use (except as provided in Section 22.32.026.A.4); those operated for commercial profit require a Conditional Coastal Permit appealable to the Coastal Commission and a Use Permit.

[BOS app. 10/2/2012]

22.32.070 – Floating Home Marinas

This Section provides for the creation and protection of floating home marinas in pleasing and harmonious surroundings, through the control of water coverage, vessel spacing, and height of structures, with emphasis on usable public access to the shoreline. Floating Home Marinas are not allowed in the Coastal Zone.

- A. Allowed uses.** In addition to floating homes, the following accessory uses may be allowed

subject to appropriate conditions in floating home marinas.

1. Car washing facilities, for residents only;
2. Chapel;
3. Coin-operated laundry and dry cleaning facilities, for residents only;
4. Management office and maintenance equipment storage;
5. Non-commercial recreation, meeting halls, club houses, etc.;
6. Overnight accommodations, for guests of residents;
7. Storage facilities, for residents only;
8. Vending machines, for residents only; and
9. Any other use which is clearly incidental and subordinate to the primary use.

B. Allowed accessory uses – Large marinas. In floating home marinas of over 200 homes, the following accessory uses may be allowed in addition to the uses listed in Subsection A, above:

1. Convenience goods shopping and personal service establishments, primarily for residents only; and
2. One doctor's and one dentist's office.

C. Standards and criteria. The following standards shall apply to the location, development, and maintenance of floating home marinas.

1. **Open water.** At least 50 percent of the total water area proposed for the floating home marinas shall be open water. The balance of the water area shall be used exclusively for floating homes and ramps or exit ways.
2. **Spacing.** The minimum distance between adjoining floating homes shall be six feet. This distance shall be increased to 10 feet if either of the floating homes is in excess of one story. Each floating home shall abut a fairway with access to open water. The minimum width of the fairway shall be 35 feet.
3. **Type of unit.** Not more than one dwelling unit per vessel shall be allowed.
4. **Required findings.** Marina approval shall require findings that the area is of sufficient size, type, location and has special features (e.g., access to public transportation and shopping facilities), which makes it a desirable residential area.
5. **Appearance.** Particular emphasis shall be placed upon the view of the area from surrounding communities and protection of the water habitat.
6. **Adverse impacts.** A floating home marina shall not be allowed if its presence creates adverse effects on surrounding communities or would be detrimental to water quality.

7. **Density.** No more than 10 vessels per acre shall be allowed.

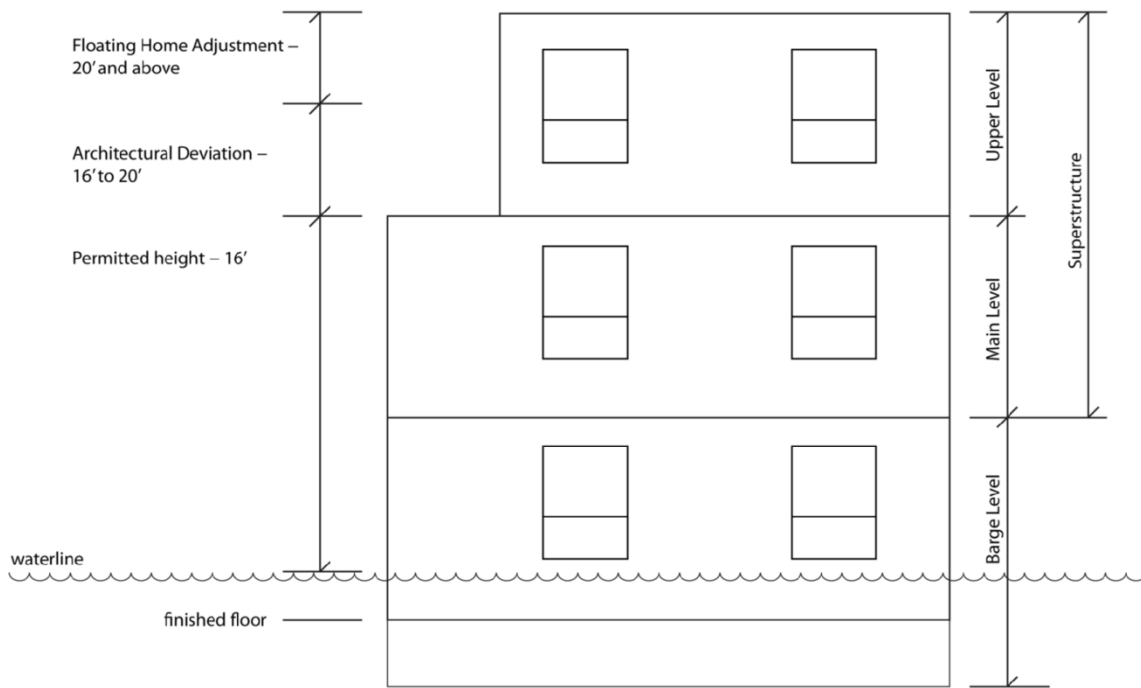
- F. **Other regulations and ordinances.** All pertinent County, State, and Federal laws and regulations concerning the development and operation of floating home marinas shall be observed. Nothing in this Section shall be construed to abrogate, void or minimize other pertinent regulations.

22.32.075 – Floating Homes

This Section provides standards for the floating homes that may be located within floating home marinas. Floating Homes are not allowed in the Coastal Zone.

- A. **Permit requirement.** No person shall, without first securing a permit from the County, move, locate, relocate, transport, or dock a floating home within the unincorporated area of the County.
- B. **Standards and criteria.** The following standards apply to floating homes, in addition to those contained in Title 19 (Buildings) of the County Code.
1. **Floating home size limitations.** Floating homes shall not exceed the following maximum dimensions, except where a Floating Home Architectural Deviation or Floating Home Adjustment Permit is approved in compliance with Chapter 22.46 (Floating Home Adjustments and Deviations). Maximum dimensions for length and width shall include the barge or other floatation structure.
 - a. **Floor area.** The floor area of any story above the lowest story of the superstructure shall not exceed 80 percent of the story immediately below the second story.
 - b. **Height:** 16 feet, measured from the water line at high tide or while the floating home is floating. (See Figure 3-14.)
 - a. **Length:** 46 feet.
 - b. **Width:** 20 feet.

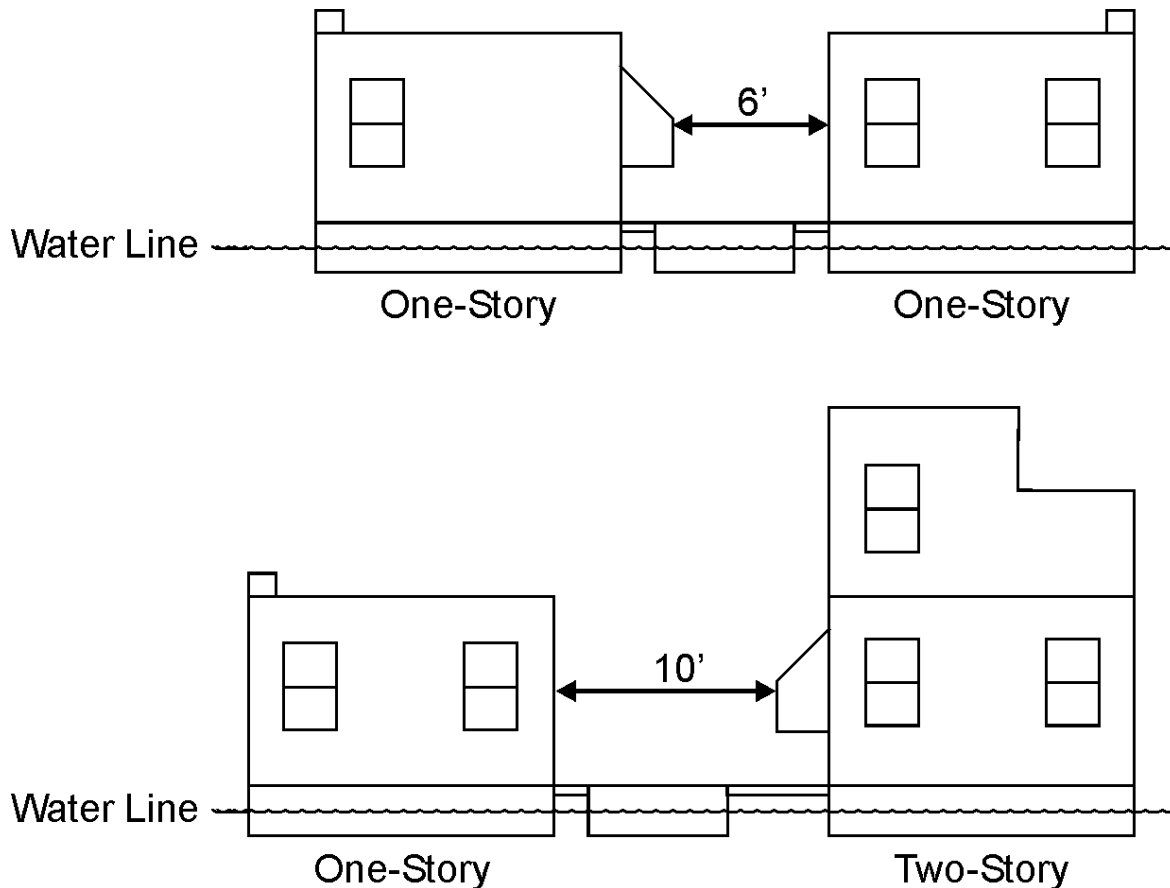
FIGURE 3-14
FLOATING HOME HEIGHT LIMITATIONS



2. **Mooring.** All vessels shall be securely and safely moored to ensure that the required space between floating homes is maintained at all times, in compliance with Section 22.32.070.C (Floating Home Marinas – Standards and Criteria). Vessels shall be moored to provide a clear waterway projection between adjoining boats or floating homes of at least six feet on all sides. A clearance of 10 feet shall be maintained when either floating home is in excess of one habitable story in height, as defined by the California Building Code. These requirements shall not apply between the vessel and the walkway or slip. See Figure 3-15.

Vessels shall be moored so as to allow landward vessels unlimited access. When used, mooring lines shall be of sufficient strength and be installed in a manner that will prevent the floating home from moving more than 12 inches in any lateral direction.

FIGURE 3-15
FLOATING HOME SETBACKS



22.32.080 – Group Homes and Residential Care Facilities

The standards of this Section shall apply to group homes and residential care facilities. Group homes and residential care facilities are dwellings licensed or supervised by any Federal, State, or local health or welfare agency that provide 24-hour non-medical care of unrelated persons, who are in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment.

- A. **Permitted use, zoning districts.** Group homes and residential care facilities are permitted in all zoning districts where dwellings are allowed by Articles II (Zoning Districts and Allowable Land Uses) and V (Coastal Zone Development and Resource Management Standards). In the coastal zone, group homes and residential care facilities must be within otherwise allowable dwellings.
- B. **Limitations on use:**
 - 1. **Group homes.** Group homes are for persons who are not disabled.
 - 2. **Residential care facilities.** Residential care facilities are for persons who are disabled, as defined in Article VIII (Development Code Definitions).
- C. **Permit requirements:**
 - 1. **Small group homes (six or fewer persons).** A small group home is a permitted use in all zoning districts where dwellings are allowed.

2. **Large group home (seven or more persons).** A large group home is a permitted use in all zoning districts where dwellings are allowed, subject to Use Permit approval in compliance with Chapter 22.48 (Use Permits).
3. **Residential care facilities.** A residential care facility is a permitted use in all zoning districts where dwellings are allowed.
4. **Multiple group homes or residential care facilities.** Two or more group homes or residential care facilities occupying a lot are a permitted use, subject to:
 - a. Use Permit approval in compliance with Chapter 22.48 (Use Permits) and, where required, Master Plan approval in compliance with Chapter 22.44 (Master Plans and Precise Development Plans); and
 - b. Compliance with minimum lot area per unit and maximum density requirements of the zoning district where the dwellings are located.

22.32.090 – Guest Houses

A “guest house” is allowed to be located on the same lot as the primary residential structures, for use by occupants of the premises or guests without a payment of a fee. Only one guest house may be allowed on each legal lot. The guest house shall have no food preparation facilities and shall not be rented or otherwise used as a separate dwelling.

22.32.095 – Homeless Shelters

This section establishes standards for the County review of homeless shelters, in conformance with State law.

- A. **Applicability.** Where allowed by Article II (Zoning Districts and Allowable Land Uses) and Article V (Coastal Zone Development and Resource Management Standards), homeless shelters shall comply with the standards of this Section. Homeless shelter means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. In the coastal zone, homeless shelters must be within otherwise allowable dwellings. No individual or household may be denied emergency shelter because of an inability to pay.
- B. **Permit requirement.** The use of a homeless shelter shall require the ministerial approval of a Homeless Shelter Permit by the Director, in compliance with Chapter 22.59 (Homeless Shelters), if it complies with the standards of 22.32.095.C.
- C. **Standards.**
 1. A homeless shelter shall not provide more than a maximum of 40 beds or serve 40 persons total.
 2. The number of parking spaces required on-site for residents shall be based on 25% of the total beds and staff parking shall be the total number of beds divided by 10.
 3. Shelters shall provide 5 square feet of interior waiting and client intake space per bed. Waiting and intake areas may be used for other purposes as needed during operations of the shelter.

4. Management. On-site management must be provided during hours of operation.
5. Proximity to other emergency shelters. Emergency shelters shall be at least 300 feet apart.
6. Maximum length of stay. Maximum of 6 months.

22.32.100 – Home Occupations

The following provisions allow for home occupations that are secondary to a residential use, and compatible with surrounding uses. A “Home Occupation” is any use customarily conducted entirely on properties where residences are authorized and carried on only by its residents.

- A. **Permit requirement.** A business license shall be obtained/posted in compliance with Title 5, Chapter 5.54 (Business Licenses) of the County Code for home occupations, which are allowed as accessory uses in all residential zoning districts. Home occupations shall comply with all health, sanitary, and fire codes. In the coastal zone, home occupations must be within otherwise allowable dwellings or accessory structures.
- B. **Operating standards.** Home occupations shall comply with all of the following operating standards.
 1. **Accessory use.** The home occupation shall be clearly secondary to the full-time residential use of the property, and shall not cause noise, odors, and other activities not customarily associated with residential uses.
 2. **Visibility.** The use shall not require any modification not customarily found in a dwelling, nor shall the home occupation activity be visible from the adjoining public right-of-way or from neighboring properties.
 3. **Display, signs.** There shall be no window display or advertising sign(s), other than one name plate not exceeding one square foot in area. There shall be no display of merchandise or stock in trade or other identification of the home occupation activity on the premises.
 4. **Parking.** The use shall not impact the on-street parking in the neighborhood.
 5. **Safety.** Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises. The use shall not employ the storage of flammable, explosive, or hazardous materials unless specifically approved by the County Fire Department, in compliance with Title 16 (Fire) of the County Code.
 6. **Off-site effects.** No home occupation activity shall create dust, electrical interference, fumes, gas, glare, light, noise, odor, smoke, toxic/hazardous materials, vibration, or other hazards or nuisances as determined by the Director.
 7. **Employees.** A home occupation may be authorized to have a maximum of one nonresident employee with a Use Permit, in compliance with Chapter 22.48.
- C. **Prohibited home occupation uses.** The following are *examples* of uses that are not incidental to or compatible with residential activities, and are therefore *prohibited* as home occupations:

1. Adult businesses;
2. Dance or night clubs;
3. Mini storage;
4. Storage of equipment, materials, and other accessories for the construction and service trades;
5. Vehicle repair (body or mechanical), upholstery, automobile detailing and painting;
6. Welding and machining;
7. Any use which generates more than one client appointment at a time; and
8. Any other use not incidental to or compatible with residential activities as determined by the Director.

22.32.105 – Mariculture (Coastal)

This Section applies to the culture and husbandry of aquatic organisms including shellfish, mollusks, crustaceans, kelp, and algae.

A. Support Mariculture. As applicable, ~~the coastal permitting authority~~ Marin County shall support and encourage mariculture in the Coastal Zone for the purposes of producing food, enhancing and restoring fisheries stocks, and contributing to the economy of the state and Marin County, ~~while providing for~~ consistent with the protection of other priority uses, such as commercial fishing, coastal recreational such as clamming and boating, and the protection of marine biological resources coastal wildlife, water quality, and visual resources. Support provision of onshore facilities necessary to support mariculture operations in coastal waters.

B. Apply General Standards to Mariculture Operations. ~~The coastal permitting authority (Coastal Commission and/or Marin County)~~ shall apply the following standards and procedures to all mariculture operations:

1. **Protection of eelgrass beds.** The siting of oyster allotments, mariculture leases, and mariculture structures ~~should~~ shall avoid ~~interference~~ disturbance or damage to eelgrass beds ~~in Tomales Bay,~~ including in conformance with Section 30.10, Title 14, California Code of Regulations.
2. **Operator access.** Public agencies should be encouraged to consider operator access to mariculture leaseholds.
3. **Shoreline access.** Mariculture operations and onshore support facilities shall incorporate provisions for public access to and along the shoreline unless such access would interfere with mariculture and the impacts from access cannot be mitigated to less than significant levels. In evaluating coastal permits for mariculture, the County shall consider the location of existing accessways and potential conflicts between mariculture and public use of the shoreline.
4. **Boating access.** The placement of structures within new or existing allotments and leases shall not interfere with public boating access at high tide to state lands within the leased

areas. If boat passages are proposed, they shall be spaced at a minimum of one passage per 1/2 mile of shoreline.

5. **Onshore support facilities.** Applicants for a coastal permit shall specify what access points and onshore support facilities (e.g., boat launch, loading dock, etc.) are required for the proposed mariculture operation, where such facilities will be located, and the timing of use. If private lands will be used for access or support facilities, the applicant shall submit a written statement from the property owner(s) agreeing to such use. If public lands will be used for access or support facilities, the applicant shall ~~arrange~~ submit a lease ~~with~~ from the appropriate public agency allowing such use, and specifying the type, location, and timing of use which is acceptable.
6. **Visual impacts.** Mariculture structures shall be sited and designed to minimize visual impacts, especially in areas which are highly visible from public roads, parks, or other public viewing areas.

22.32.110 – Mobile Home Parks (non-Coastal)

This Section applies to areas set aside for mobile home parks in locations that are properly integrated with adjoining neighborhoods, in a way which will ensure the optimum benefit of residents of the mobile home park and of the larger community.

- A. **Allowable uses.** Mobile home parks may include the primary uses normally associated with a mobile home park. The following accessory uses may be established in compliance with the applicable standards of this Development Code:
 1. Car washing facilities, for residents, only;
 2. Chapel;
 3. Coin-operated laundry and dry cleaning facilities, for residents;
 4. Home occupations;
 5. Management office and maintenance equipment storage;
 6. Non-commercial recreation, meeting halls, club houses, etc.;
 7. Overnight accommodations, for guests of residents;
 8. Storage facilities, for residents, only;
 9. Vending machines, for residents, only; and
 10. Any other use determined by the Director to be clearly incidental and subordinate to the primary use.
- B. **Large parks.** The following additional accessory uses may be allowed in a mobile home park with over 200 mobile homes:
 1. Convenience goods shopping and personal service establishments primarily for

residents, only; and

2. One doctor's and one dentist's office.

C. Standards and criteria. Mobile home parks shall comply with the following standards.

1. **Minimum site area:** 10 contiguous acres.

2. **Maximum density.**

- a. The maximum density for a mobile home park in the RX zoning district shall be set by the Board as part of rezoning to the RX district and simultaneous Master Plan approval (see Section 22.32.110.D (Submission Requirements), below), but shall not exceed the density provided by Section 22.32.110.C.2.b below.

In determining the appropriate density, the Board shall consider any adopted Community Plan or the Countywide Plan, any Master Plan for the area in which the RX zoning district is to be established, existing zoning and development in the area, and any applicable parcel slope.

- b. Maximum density, determined by Master Plan approval, shall not exceed 10 mobile homes of 750 square feet or less in gross floor area per acre or eight mobile homes of more than 750 square feet in gross floor area per acre; or a combination of both.
3. **Completion of construction.** Prior to occupancy of the first mobile home, not less than 50 mobile home lots shall be prepared and available for occupancy.
 4. **Parking requirements.** The overall parking ratio shall be two parking spaces for each mobile home lot. At least one parking space shall be provided on, or immediately adjoining to, each mobile home lot, in compliance with Sections 24.04.330 through .400 (Parking and Loading) of the County Code.
 5. **Setbacks.** All structures and mobile homes shall be set back at least 25 feet from all property lines and streets or public rights-of-way. If a greater building line has been established by ordinance, it shall be observed. The setback area shall be landscaped and maintained as a buffer strip, in compliance with Chapter 22.26 (Landscaping).
 6. **County Health requirements.** A County Health Department permit shall be obtained in compliance with Chapter 7.44 (Mobile Home Parks) of the County Code.
 7. **Utilities.** All utilities shall be installed underground. Individual exposed antennae shall not be allowed.
 8. **Height limits.** The maximum height for:
 - a. Mobile homes shall be 15 feet;
 - b. Accessory **structures** shall be 15 feet; and
 - c. **Service** facilities shall be 30 feet.

D. Submission requirements. In addition to the general submission requirements for Master

Plan and Precise Development Plan approval, in compliance with Chapter 22.44 (Master Plans and Precise Development Plans), a petition for a zoning district change for an RX district and a Master Plan for the mobile home park shall be filed simultaneously with the Agency.

For the purpose of this Section, the rezoning and the Master Plan shall be considered as one application and shall be considered in compliance with Chapter 22.116 (Development Code, Zoning Map, Community Plan and Countywide Plan Amendments).

- E. Other laws, regulations and ordinances.** All applicable County and State laws and regulations concerning the development and operation of mobile home parks shall be observed. Nothing contained in this Section shall be construed to abrogate, void, or minimize other pertinent requirements of law.

22.32.115 – Determination of Non-Agricultural Uses Development (Coastal)

This Section applies only in those instances where ~~Table 2-1~~ Table 5-1 expressly refers to this Section. Non-agricultural development is defined to include division of agricultural lands and any development not classified as “Agriculture, Mariculture” in Table 5-1 in 22.62. The purpose of applying the following standards is to determine whether a specific non-agricultural development, including land use, is accessory and incidental to, in support of, compatible with, and necessary for the primary use of land for agricultural production. The intent of these provisions is to ensure that non-agricultural uses—development only be allowed where long-term agricultural productivity, including on each parcel created in the case of a land division, would be maintained and enhanced do not become the primary use of agricultural land to the detriment of agricultural production.

- A. Permitted use, zoning districts.** Non-agricultural ~~uses—development~~ may be allowed as a principal permitted land use ~~in the following zoning districts: A2, A3 to A60, ARP, and O-A, and as allowed by Articles II (Zoning Districts and Allowable Land Uses) and V (Coastal Zones - Permit Requirements and Development Standards) subject to the requirements of this section. This Section does not apply to the following zoning districts: ARP-1 to ARP-5.~~

B. Limitations on use:

- 1. ~~Accessory Use General.~~** Non-agricultural development shall only be allowed upon demonstration that long-term agricultural productivity, including on each parcel created in the case of a land division, would be maintained and enhanced as a result of such development, and that agricultural productivity on adjacent parcels would be maintained. In considering divisions of agricultural lands in the Coastal Zone, the County may approve fewer parcels than the maximum number of parcels allowed by the Development Code, based on site characteristics such as topography, soil, water availability, environmental constraints and the capacity to sustain viable agricultural operations. ~~In the aggregate, identified non-agricultural uses shall be accessory and incidental to the primary use of the property for agricultural production. The following factors shall be considered in determining whether a property is used primarily for agricultural production:~~

~~(a) The primary use of the property is consistent with the definition of agriculture; and~~

~~(b) The agricultural products produced on site are sold commercially.~~

- 2. Referrals.** In determining whether a non-agricultural ~~use—development~~ is ~~accessory and incidental to the primary use of the property for agricultural production allowable~~, the review authority may refer such a question to such individuals or groups with agricultural

expertise as appropriate for a recommendation prior to making a determination. ~~When determining whether a property is primarily used for agricultural production~~ In making such a determination, among other things the review authority may consider the following:

- (a) Whether the areal extent of land dedicated to agriculture is sufficient to support agricultural production; and
- (b) Whether the agricultural producer can demonstrate that agricultural products are sold commercially; and
- (c) Whether the use intensity and income generation of the agricultural land is consistent with similar agricultural activities in the County and state.

22.32.115 – Non-Agricultural Uses in Agricultural Zoning Districts (non-Coastal)

This Section applies only in those instances where Table 2-1 expressly refers to this Section. The purpose of applying the following standards is to determine whether a specific non-agricultural land use is accessory and incidental to the primary use of land for agricultural production. The intent of these provisions is to ensure that non-agricultural uses do not become the primary use of agricultural land to the detriment of agricultural production.

A. Permitted use, zoning districts. Non-agricultural uses may be allowed as a principally permitted land use in the following zoning districts: A2, A3 to A60, ARP, ~~C-ARP, C-APZ, O-A, and C-OA,~~ and as allowed by Articles II (Zoning Districts and Allowable Land Uses) and V (~~Coastal Zone Development and Resource Management Standards~~) subject to the requirements of this section. This Section does not apply to ARP-1 to ARP-5 zoning districts.

B. Limitations on use:

1. **Accessory Use.** In the aggregate, identified non-agricultural uses shall be accessory and incidental to the primary use of the property for agricultural production. The following factors shall be considered in determining whether a property is used primarily for agricultural production:
 - a. The primary use of the property is consistent with the definition of agriculture; and
 - b. The agricultural products produced on site are sold commercially.
2. **Referrals.** In determining whether a non-agricultural use is accessory and incidental to the primary use of the property for agricultural production, the review authority may refer such a question to such individuals or groups with agricultural expertise as appropriate for a recommendation prior to making a determination. When determining whether a property is primarily used for agricultural production, the review authority may consider the following:
 - a. Whether the areal extent of land dedicated to agriculture is sufficient to support agricultural production; and

- b. Whether the agricultural producer can demonstrate that agricultural products are sold commercially; and
- c. Whether the agricultural land is used at a level of intensity that is, and the income derived therefrom is, consistent with similar agricultural activities in the County and in the State.

22.32.130 – Residential Accessory Uses and Structures

When allowed in the zoning district applicable to a site, see Section 22.10.030 (Residential District Land Uses and Permit Requirements) or Section 22.62 (Coastal Zoning Districts and Allowable Land Uses), ~~specific~~ residential accessory uses and structures are subject to the provisions of this Section. In the coastal zone, the standards in this section governing residential accessory uses and structures shall also apply to agricultural dwelling units. Residential accessory uses and structures include ~~any uses and structures~~ customarily related to a residence, including swimming pools, workshops, studios, storage sheds, small greenhouses, and garages.

A. General requirements. All residential accessory uses and structures are subject to the following standards, ~~except and may also be subject to where~~ more restrictive requirements ~~are where~~ established by other provisions of this Section ~~for specific uses~~.

1. Relationship of accessory use to primary use. Residential accessory uses and structures shall be incidental to and not alter the character of the site from that created by the primary use. Accessory uses and structures shall not be allowed until a primary use or structure has been established on the site.

2. Attached structures. A residential accessory structure that is attached to a primary structure shall comply with all requirements of this Development Code applicable to the primary structure, including setbacks, height, and floor area ratio.

3. Detached structures:

a. Height. Residential accessory structures shall be in compliance with Section 22.20.060 (Height Measurement and Height Limit Exceptions). In the coastal zone, residential accessory structures shall be in compliance with Section 22.64.045(3) (Height Limits and Exceptions). A residential accessory structure shall not exceed a height of 15 feet; except that an accessory structure may be constructed to the maximum height allowed by the applicable zoning district for a primary structure, where the structure is located at least 40 feet from any property line and it meets any other applicable requirements (e.g., those protecting public views). Further, where floor area is developed beneath a detached parking structure in conformance with Section 22.32.130.A.3.b below, the maximum height of the detached structure shall be 30 feet ~~above grade~~.

b. Setback requirements: Residential accessory structure(s) shall be in compliance with Section 22.20.090 (Setback Requirements and Exceptions). In the coastal zone, residential accessory structures shall be in compliance with Section 22.64.045(4) (Setback Requirements and Exceptions). Floor area directly beneath a parking structure that is built in reliance on Section 22.32.130.B.2 may be built to within three feet of the front property line that abuts the adjoining street from which vehicular access is taken, provided the floor area does not extend beyond the footprint of the parking structure.

- c. **Coverage.** The total aggregate floor area of all detached accessory structures shall not exceed 30 percent of the area contained within the boundaries of the setback required in the rear yard except with Design Review approval, which shall be required in addition to and independent of Coastal Permit requirements. See Chapter 22.42 (Design Review).
 - d. **Floor Area Ratio (FAR).** A detached residential accessory structure shall be subject to the FAR requirements of the applicable zoning district, as FAR is defined in Article VIII (Development Code Definitions).
- B. **Parking structures.** The following additional requirements shall also apply to detached garages and other residential accessory parking structures ~~for parking.~~
 - 1. **Floor area ratio.** A parking structure shall be subject to the FAR requirements of the applicable zoning district, as FAR is defined in Article VIII (Development Code Definitions).
 - 2. **Front setback exception.** Where the slope of the one-half of the parcel beginning at the street-access side is 20 percent or more, or where the elevation of the parcel at the property line from which vehicular access is taken is five feet or more above or below the elevation of the adjoining street, a garage, carport, or cardeck may be built to within three feet of the front and side property lines that abut the adjoining street from which vehicular access is taken. All portions of the dwelling other than the parking structure shall maintain the setbacks applicable to the primary dwelling in the applicable zoning district. No portion of a residential parking structure, including eaves or roof overhangs, shall extend beyond a property line or into an access easement or street right-of-way.
- C. **Home occupations.** Home occupations are subject to Section 22.32.100 (Home Occupations).
- D. **Tennis and other recreational uses.** Private non-commercial outdoor tennis courts and courts for other sports (e.g., racquetball, etc.) accessory to a residential use may be established with Design Review approval in addition to and independent of Coastal Permit requirements, in compliance with Chapter 22.42, and are subject to the following requirements:
 - 1. **Fencing.** Court fencing shall be subject to the height limits of Section 22.20.050 (Fencing and Screening Standards). In the coastal zone, court fencing shall be subject to Section 22.64.045(2) (Fencing and Similar Structure Standards).
 - 2. **Lighting.** Court lighting may be prohibited, as a condition of the Design Review approval. If allowed, the court lighting may be installed with a height not exceeding 10 feet, measured from the court surface. The lighting shall be directed downward, shall only illuminate the court, and shall not illuminate adjacent property.
- E. **Vehicle storage.** The storage of vehicles, including incidental restoration and repair, shall be in compliance with Section 22.20.090.F (Restrictions on the Use of Front Yard Setbacks in Residential Districts), and Chapter 7.56 (Abandoned Vehicles) of the County Code, in addition to and independent of Coastal Permit requirements.
- F. **Workshops or studios.** A residential accessory structure intended for engaging in artwork, crafts, handcraft manufacturing, mechanical work, etc. may be constructed or used as a

workshop or studio in a residential zoning district solely for: non-commercial hobbies or amusements; maintenance of the primary structure or yards; artistic endeavors (e.g., painting, photography or sculpture); maintenance or mechanical work on vehicles owned or operated by the occupants; or other similar purposes.

Any use of accessory workshops for a commercial activity shall comply with the requirements for Home Occupations in Section 22.32.100 (Home Occupations) or, where applicable Cottage Industries in Section 22.32.060 (Cottage Industries).

22.32.140 – Residential Second Units

A. Purpose. This Section is intended to accomplish the following:

1. Meet the County's projected housing needs and provide diverse housing opportunities;
2. Provide needed income for homeowners;
3. Provide second units which are safe and built to code;
4. Provide second units which are compatible with the neighborhood and the environment; and
5. Comply with provisions of State law, including those contained in Section 65852.2 of the California Government Code.

B. Applicability. The provisions of this Section shall apply to single-family and multi-family residential zoning districts, including the R1, R-2, RA, RR, RE, RSP, C-R1, C-R2, C-RA, C-RSP, C-RSPS, A, A2, ARP, C-ARP, RMP, and C-RMP districts in the unincorporated portions of the County.

C. Design Characteristics. A second residential unit shall be designed and constructed as a permanent residence with a minimum of 220 square feet of floor area, including: food preparation facilities which may include kitchen counters and cabinets, a stove, oven, hot plate, microwave, refrigerator, or sink, as determined by the Director; both a separate bathroom and separate entrance intended for the use of the occupants, as determined by the Director. A second unit may be established by:

1. The alteration of a single-family unit whereby food preparation facilities are not shared in common;
2. The conversion of an attic, basement, garage, or other previously uninhabited portion of a single-family unit;
3. The addition of a separate unit onto the existing single-family unit; or
4. The conversion or construction of a separate structure on the parcel in addition to the existing single-family unit.
5. With the exception of density, all second units must be found consistent with all lot coverage and other site development standards per the applicable residential zoning district where such standards are considered on a cumulative basis that include accounting for any existing buildings on site. Second Units shall conform to all of the zoning and development standards (i.e., lot coverage, height, setbacks, design, FAR,

etc.) of the residential zoning district which governs the lot. A Second Unit attached to the principal residence shall be subject to the height, setback, and coverage regulations of the principal residence. A Second Unit detached from the principal dwelling shall be treated as a residential accessory structure in regard to height, and setbacks.

- D. Limitation on sale.** A second unit may be rented but shall not be sold separately from the single-family unit.
- E. Second Unit Permitting Procedure.** Applications for Second Unit Permits that are not otherwise subject to a discretionary permit (e.g., Coastal Permit, Design Review, Variance) shall be approved ministerially without discretionary review or public hearing, pursuant to the Second Unit Permit requirements established in Chapter 22.56 (Second Unit Permits). All second units in the coastal zone shall also require coastal permit approval consistent with the LCP (see additional standards in 22.64.130(A)(5)).
- F. Recordation of Residential Second Unit Permits.** Any Residential Second Unit Permit granted in compliance with this Section may be recorded in the County Recorder's Office as an informational document in reference to the title of the subject property.
- G. Periodic report.** The Agency shall periodically prepare a report to the Commission and Board on the status of this Section. The report shall include information about the number, size, type, and rent, as available, of each second unit by neighborhood. The report shall provide a basis for an evaluation of the effectiveness of this Section.

22.32.150 – Residential Uses in Commercial/Mixed Use Areas (Coastal)

This section applies to development projects that include residential floor area in the C-VCR, C-H1, C-CP, C-RMPC, and C-RCR zoning districts.

A. Permit requirement. Any allowable dwellings shall be accessory to the primary commercial use, and shall be designed and sited in a manner that does not conflict with the continuity of store frontages, while maintaining visual interest and a pedestrian orientation. Residential development within the C-VCR zone must also comply with the specific standards contained in 22.64.170(A)(3).

22.32.150 – Residential Uses in Commercial/Mixed Use Areas (non-Coastal)

This section applies to development projects that include new non-residential floor area in the C1, CP, AP, and H1 zoning districts.

- A. Permit requirement.** Design Review approval, in compliance with Chapter 22.42 (Design Review), is required for residential uses in commercial areas subject to this Section. The following additional findings shall apply.
 - 1. The site design is compatible with the adjacent community and incorporates design elements such as vertical mix of uses and usable common/open space areas, where appropriate.
 - 2. The residential uses should be designed and sited in a manner that does not conflict with the continuity of store frontages, while maintaining visual interest and a pedestrian orientation.
- B. Affordable Housing.** The affordable housing requirements contained in Chapter 22.22

Affordable Housing Regulations may apply to the proposed development.

C. Exemptions.

1. For lots larger than 2 acres in size, renovations and additions not resulting in more than 1,000 square feet of new floor area shall be exempt from the requirements of this section.
2. For lots 2 acres and less in size, renovations and additions not resulting in more than 2,000 square feet of new floor area shall be exempt from the requirements of this section.
3. Projects developed under the Countywide Plan's Housing Overlay Designation program are subject to separate standards established in the Countywide Plan and are therefore exempt from the requirements of this section.

D. Waivers.

The review authority may grant a waiver to the development standards if one or more of the following criteria is met:

1. The applicant shows that the waiver is necessary to make the neighborhood serving retail development project economically viable, based upon appropriate financial analysis and documentation. The full cost of the county's review of any required pro forma data shall be borne by the applicant.
2. The applicant proposes to include either a greater number of affordable housing units than required per Chapter 22.22 or the same number of required units that are affordable at a lower income level.
3. Application of requirements of this Chapter would have an adverse impact on any real property that is listed in the California Register of Historic Resources.

E. Development standards.

1. The combined residential and commercial floor area ratio shall not exceed the floor area ratio that is established in the Countywide Plan land use designation. The floor area ratio limit does not apply to affordable housing projects.

For projects consisting of moderate income housing, the FAR may only be exceeded in areas that meet the County's vehicle level of service standard.

2. For lots larger than 2 acres in size, at least 50% of the new floor area shall be developed for new housing.

For lots 2 acres and less in size, at least 25% of the new floor area shall be developed for new housing.

3. Required housing shall be provided at a minimum size of 220 square feet and a maximum size of 1,000 square feet per unit.
4. The maximum residential density shall not exceed one unit per 1,450 square feet of lot

area (30 units per acre).

5. Projected afternoon (PM) peak-hour traffic impacts of the proposed development are no greater than such impacts for the maximum non-residential development permissible on the site under the Countywide Plan land use designation.
6. For properties within the area covered by the Tamalpais Area Community Plan, the residential units on sites developed pursuant to this section will not result in more than 100 residential units, excluding units with valid building permits issued prior to the date of adoption of the Countywide Plan update (November 6, 2007). The 100 unit cap includes any applicable density bonus.

22.32.160 – Service Stations/Mini-Markets

The retail sales of food and beverage products and other general merchandise in conjunction with a motor vehicle service station is allowed subject to Use Permit approval, in compliance with Chapter 22.48 (Use Permits), and the following standards.

- A. Sales area.** The maximum allowable floor area for retail sales shall be 175 square feet or 15 percent of the total floor area of the structure whichever is greater. These area limitations may be increased through Use Permit approval provided that the following findings are made:
 1. Retail sales shall be subordinate to the primary motor vehicle service station use(s);
 2. The proportion of retail sales to total floor area of the structure(s) shall be limited to an amount that is reasonable to allow sales of a limited number of items for the convenience of travelers as permitted by Subsection B, below.
 3. The size, extent and operation of retail sales shall not conflict with the predominant character of the area surrounding the service station.
 4. The size, extent, and operation of retail sales shall not cause a significant increase in traffic and noise in the area surrounding the service station.
- B. Allowed products.** Retail sales of non-automotive products shall be limited to items for the convenience of travelers, including film, personal care products, and packaged food and beverage items.
- C. Signs.** No exterior signs are allowed to advertise specific items for sale. All on-site signs shall be in compliance with Chapters 22.28 (Signs) and Title 5, Chapter 5.40 (Posting of Gasoline Prices) of the County Code, in addition to and independent of Coastal Permit requirements, including those specified in Chapter 22.64.100(A)(5).
- D. Parking.** On-site parking shall comply with Sections 24.04.330 through .400 (Parking and Loading) of the County Code, in addition to and independent of Coastal Permit requirements, including those specified in 22.64.150, and shall include sufficient spaces for all employees on a single shift.
- E. Restrooms.** Restrooms shall be provided and available to the public.
- F. Self-service stations.** Establishment of self-service stations or the conversion of existing full-service stations to self-service stations shall require an additional finding by the Zoning

Administrator, that the establishment of a self-service station will not adversely affect public health, safety, and welfare by either diminishing the availability of minor emergency help and safety services, including minor motor vehicle repair and public restrooms, or discriminating against individuals needing refueling assistance.

22.32.161 – Solar Energy Systems (Coastal)

The installation of any solar energy system, as defined in Section 22.130.030, must be sited and designed to be consistent with all required setbacks and height limits of the specific zoning district in which it is proposed. In addition, ground area coverage of the system shall have no significant impacts on environmental quality or wildlife habitats, and shall meet all other applicable policies and standards of the LCP.

A. Roof-Mounted Solar Energy System:

1. Allowed as a Principal Permitted Use in all coastal zoning districts.
2. May be ~~Exempt~~ from the Coastal Permit requirement, consistent with Section 22.68.050.
3. May exceed the required height limit of the zoning district in which the project is proposed by no more than two feet. If any part of the solar energy system structure exceeds the required height limit by greater than two feet, findings of consistency with the LCP, including Policies C-DES-1-3, shall be required, in addition to and independent of required ~~then-Design Review shall be required for approval.~~

B. Free-Standing Solar Energy System:

1. Allowed as a Permitted Use in all coastal zoning districts.
2. Exempt from the minimum yard setback requirements of the zoning district in which the project is proposed if the structure does not exceed a height of eighteen inches above grade at any point.

22.32.165 – Telecommunications Facilities (Coastal)

This Section establishes permit requirements and standards for the development and operations of telecommunications facilities in compliance with State and Federal law, and the LCP.

A. Permit requirements. Telecommunications facilities are allowable in all zoning districts. All new telecommunications facilities shall require CDP approval, unless exempt pursuant to 22.68.050.

B. Electromagnetic fields. The electromagnetic field (EMF) strengths or equivalent plane-wave power densities generated by the approved facility, in combination with other existing ambient sources of EMF, shall not expose the general public to EMF levels which exceed the Maximum Permitted Exposure levels for electric and magnetic field strength and equivalent plane-wave power density in the EMF emission guidelines adopted by the Federal Communications Commission (FCC). In the event the FCC adopts a more restrictive Maximum Permitted Exposure Level, or the County adopts a more restrictive EMF exposure standard if allowed by future changes in Federal law, the applicant shall demonstrate compliance with the more restrictive standard unless such a requirement is preempted by State or Federal law.

C. Development standards. In addition to all applicable required standards and findings, including those in the LCP's Community Design and Public Facilities and Services chapters,

the following additional development standards shall apply for telecommunications facilities. All telecommunications facilities shall comply with all applicable LCP policies, including those specified below, except when denial would be inconsistent with the Federal Telecommunications Act (FTA) and the reviewing authority finds there is no feasible alternative location. Where denial would be inconsistent with FTA and the reviewing authority finds there is no feasible alternative, approval of the facilities is also subject to all of the following written findings: (1) There is no alternative facility configuration that would avoid impacts inconsistent with all other applicable standards of the certified LCP; (2) Impacts are avoided to the maximum extent feasible; (3) Unavoidable impacts are minimized and mitigated to the maximum extent feasible; and (4) The facility can be found consistent with all otherwise applicable LCP standards.

1. New telecommunication facilities shall not be permitted where co-location on existing facilities would provide equivalent coverage with less impact to coastal resources.
2. The placement of co-located facilities on an existing wireless telecommunication facility shall require a CDP, except that if a CDP was issued for the original wireless telecommunication facility and that CDP authorized the proposed new co-location facility, the terms and conditions of the underlying CDP shall remain in effect and no additional CDP shall be required.
3. New telecommunications facilities shall not be permitted in Ridge and Upland Greenbelt areas, unless no other technically feasible and available site exists; provided, wireless communications facilities should be permitted in ridge and upland greenbelt areas where they are co-located with existing structures and are consistent with the policies and programs of the LCP. Applications for new telecommunications facilities in Ridge and Upland Greenbelt areas shall include technical information prepared by qualified professionals that sufficiently demonstrates that no other technically feasible site is available to provide adequate coverage consistent with Federal law requirements. For the purposes of this section, any determination that no other technically feasible site is available shall be made in writing and supported by evidence.
4. New or expanded sites shall ensure co-location and other efficient use of facilities to minimize the need for new sites, particularly on ridgeline and/or visually sensitive locations. Site users and operators shall be encouraged to share and/or consolidate facilities to the greatest extent possible. Facilities that may be shared include buildings, access roads, parking areas, utilities, transmitters, towers and other structures, and antennas.
5. All telecommunication facilities shall be sited and designed to avoid, and where unavoidable, to minimize, visual impacts to the maximum extent feasible, including by visually blending with the predominant landscape, co-locating with existing facilities, landscaping consisting of non-invasive/native plants, coloring and materials to blend with the existing landscape, and shall be the minimum height necessary to provide adequate service coverage consistent with Federal law requirements. A visual analysis of the facility shall be submitted with the application materials to assess the proposed facility at design capacity. The visual analysis shall include a photo-montage or photo-simulation, and/or poles erected at the proposed site. The analysis shall address views of the proposed facility from public vantage points, including views from public roads, trails, lookouts, parks, and beaches. The analysis shall also depict cumulative conditions by including information on existing, approved, and proposed telecommunications facilities that will or may eventually be approved at the proposed site.
6. Telecommunications support facilities such as vaults and equipment rooms, utilities and other support structures shall be placed underground, depressed, earth bermed, or sited below ridgelines or other significant public line of sight to the greatest extent

- feasible. All facilities shall visually blend with the surrounding built and natural environments.
7. New telecommunications facilities shall protect significant public views as required by Policy C-DES-2.
 8. New telecommunications facilities proposed on parcels restricted by agricultural, open space, scenic or other public easement or restriction will only be permitted in accordance with the terms of such public easement or restriction.
 9. Applications for new or expanded telecommunications facilities shall contain long range plans which project market demand and long-range facility expansion needs.
 10. Development of telecommunications facilities shall be consistent with LCP policies requiring the protection of coastal resources, including ESHA and prime agricultural land. Such facilities shall be evaluated for the potential for significant adverse effects on plant and animal species, including the potential to interfere with the migratory flyway or flight path used by resident bird species, and where clearing native vegetation is required for facility construction or expansion. Where potential significant effects are identified, appropriate mitigation including siting, design, and monitoring shall be required to avoid, and/or offset if unavoidable, such effects.
 11. All coastal permit approvals granted for telecommunications facilities shall include a condition that the permit be authorized and renewed via a new CDP at least every 10 years. When reviewing requests for permit renewal, the Applicant shall incorporate all feasible new or advanced technologies that will reduce previously unavoidable impacts to the maximum extent feasible.

22.32.165 – Telecommunications Facilities (non-Coastal)

This Section establishes permit requirements and standards for the development and operations of telecommunications facilities in compliance with the following policies of the Marin County Telecommunications Facility Policy Plan.

- A. Permit requirements.** Telecommunications facilities are allowable in all zoning districts, subject to the permit requirements described in Telecommunications Facilities Policy Plan Implementation Objectives RP-1 and RP-2.
- B. Permit waivers.** An applicant for a wireless telecommunications facility may file a formal written request for waiver of the permit requirements described in Telecommunications Facilities Policy Plan Implementation Objectives RP-1 and RP-2. Permit waivers are separate from the permit exemptions identified in the Telecommunications Facilities Policy Plan and it is the responsibility of the applicant to establish evidence in support of the waiver criteria required by this section. The Director shall waive the permit requirements for a facility that is co-located on or adjoining an existing telecommunications facility when the existing telecommunication facility has a certified environmental impact report or adopted negative declaration or mitigated negative declaration, and the existing facility has incorporated the required mitigation measures. The new equipment or structures do not constitute a substantial change in the project or new information as outlined in Public Resources Code Section 21166.
- C. Electromagnetic fields.** The electromagnetic field (EMF) strengths or equivalent plane-wave power densities generated by the approved facility, in combination with other existing ambient sources of EMF, shall not expose the general public to EMF levels which exceed the Maximum Permitted Exposure levels for electric and magnetic field strength and equivalent plane-wave power density in the EMF emission guidelines adopted by the Federal Communications Commission (FCC). In the event the FCC adopts a more restrictive Maximum Permitted Exposure Level, or the County adopts a more restrictive EMF exposure

standard if allowed by future changes in Federal law, the applicant shall demonstrate compliance with the more restrictive standard unless such a requirement is preempted by State or Federal law.

- D. Development standards.** The development standards for telecommunications facilities are identified in the policies and programs of the Marin County Telecommunications Facilities Policy Plan, as may be updated from time to time.

22.32.170 – Tobacco Retail Establishments

This Section establishes permit requirements and standards for the development and operation of tobacco retail establishments.

- A. Permit requirements.** Notwithstanding any provision of this title, a ~~significant~~ tobacco retailer may be established in the following zoning districts subject to securing a Use Permit or Master Plan where required: C1, CP, OP, H1, IP, C-H1, or C-CP.
- B. Development standards.** No significant tobacco retailer shall be located within 1,000 feet from a parcel occupied by the following uses:
1. Public or private kindergarten, elementary, middle, junior high or high schools;
 2. Licensed child day-care facility or preschool other than a small or large family day-care home;
 3. Public playground or playground area in a public park (e.g., a public park with equipment such as swings and seesaws, baseball diamonds or basketball courts);
 4. Youth or teen center;
 5. Public community center or recreation center;
 6. Arcade;
 7. Public park;
 8. Public library; or
 9. Houses of worship conducting youth programs or youth oriented activities.
- C. Exceptions.** Notwithstanding any other provisions of this code, nothing in this section shall prohibit the County from approving any of the uses specified above in Subsection B, if they are subsequently proposed to be located within 1,000 feet of an existing significant tobacco retailer, if the appropriate decision-making body finds that the establishment of such uses is necessary to protect the public, health, safety, and welfare, or other substantial governmental interest is thereby served.

22.32.180 – Wind Energy Conversion Systems (WECS) (non-Coastal)

This Section establishes permit requirements for planned zoning districts and non-planned zoning districts and standards for the development and operation of Wind Energy Conversion Systems (WECS) in compliance with Marin County policies and State and Federal laws and allows and encourages the safe, effective, and efficient use of WECS in order to reduce consumption of utility supplied electricity. Wind Energy Conversion Systems (WECS) are not allowed in the Coastal Zone.

A. Permit requirements. Small and Medium Wind Energy Conversion Systems (WECS) are allowed in all zoning districts, except the RF (Floating Home Marina) zoning district, subject to the following general requirements. Large WECS are allowed only in agricultural zoning districts (A3-A60, ARP, APZ) with a minimum lot size of 20 acres, subject to the following general requirements.

1. Planned Zoning Districts.

- a. Small WECS in the APZ zoning district and Small Roof-Mounted and Small Non-Grid-Tied Agricultural WECS, located in parcels with a minimum lot size of one acre in the ARP zoning district and all other planned zoning districts that are not identified in Section 22.32.180.A.1.b are allowed as a ministerial permit subject to the development standards in Section 22.32.180.B.1 and Section 22.32.180.B.5 (Table 3-9).
- b. Small Roof-Mounted and Small Non-Grid-Tied Agricultural WECS located in parcels that are less than one acre in the ARP zoning district and all other Small WECS in planned zoning districts that are not identified herein or in Section 22.32.180.A.1.a shall require Design Review approval subject to the development standards in Section 22.32.180.B.2 and Section 22.32.180.B.5 (Table 3-9).
- c. Medium WECS, located in planned zoning districts, shall require Design Review approval, subject to the development standards in Section 22.32.180.B.3 and Section 22.32.180.B.5 (Table 3-9).
- d. Large WECS, located in planned zoning districts, shall require the approval of a Master Plan and Precise Development Plan subject to the development standards and requirements outlined in Section 22.32.180.B.4 and Section 22.32.180.B.5, unless the Master Plan and Precise Development Plan requirements are waived in compliance with Section 22.44.040 (Waiver of Master Plan/Precise Development Plan Review) and a Use Permit and Design Review are required instead.

2. Conventional Zoning Districts.

- a. Small WECS, located in conventional agricultural zoning districts and Small Roof-Mounted and Small Non-Grid Tied Agricultural WECS located in parcels with a minimum lot size of one acre in conventional non-agricultural zoning districts, are allowed as a ministerial permit subject to the development standards outlined in Section 22.32.180.B.1 and Section 22.32.180.B.5 (Table 3-9).
- b. Small WECS, located in parcels that are less than one acre in all other conventional non-agricultural zoning districts and Small Freestanding WECS in conventional agricultural zoning districts that are not identified herein or in Section

22.32.180.A.2.a shall require Design Review approval subject to the development standards outlined in Section 22.32.180.B.2 and Section 22.32.180.B.5 (Table 3-9).

- c. Medium WECS, located in conventional zoning districts, shall require Design Review approval subject to the development standards outlined in Section 22.32.180.B.3 and Section 22.32.180.B.5 (Table 3-9).
- d. Large WECS, located in conventional zoning districts, shall require Use Permit and Design Review approval subject to the development standards outlined in Section 22.32.180.B.4 and Section 22.32.180.B.5 (Table 3-9).

3. Summary of Permit Requirements.

**TABLE 3-8
WECS PERMIT REQUIREMENTS**

	Small						Medium	Large
	Roof-Mounted		Non-Grid-Tied Agricultural Uses			Freestanding	Freestanding	Freestanding
Parcel Size (Acres)	<1	≥1	<1	≥1 – <10	≥10	Not applicable	Not applicable	≥20
RF (Floating Home Marina) Zoning District	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed
A3-A60 Zoning Districts	Ministerial ¹	Ministerial ¹	Ministerial ¹	Ministerial ¹	Ministerial ¹	Ministerial ¹	Design Review ²	Use Permit/Design Review ⁴
APZ Zoning District	Ministerial ¹	Ministerial ¹	Ministerial ¹	Ministerial ¹	Ministerial ¹	Ministerial ¹	Design Review ²	Master Plan/PDP ^{3, 4}
ARP Zoning District	Design Review ²	Ministerial ¹	Use Permit/Design Review ²	Design Review ²	Ministerial ¹	Design Review ²	Design Review ²	Master Plan/PDP ^{3, 4}
A2 and all Other Zoning Districts	Design Review ²	Ministerial ¹	Use Permit/Design Review ²	Design Review ²	Ministerial ¹	Design Review ²	Design Review ²	Not Allowed

Notes:

- (1) Exceptions to standards in Table 3-9 shall be considered through the Design Review Process.
- (2) Exceptions to standards in Table 3-9 shall be considered through the Use Permit Process.
- (3) If Master/Precise Development Plan requirement is waived, Use Permit and Design Review will be required.
- (4) Exceptions to standards in Table 3-9 shall be considered through the permit process.

- 4. **Time limits.** The approval for a Large WECS shall be granted for a term of not less than 10 years, except that an approval shall lapse if a Large WECS becomes inoperative or abandoned for a period of more than one year. The approval for a Small or Medium WECS shall be for an indefinite period, except that an approval shall lapse if a Small or Medium WECS becomes inoperative or abandoned for a period of more than one year.

- 5. **Applicability.** In addition to the provisions of Section 22.32.180, all other

applicable provisions of this Development Code shall apply to a new WECS land use. In the event there is any conflict between the provisions of this section and any other provision of this Development Code, the more restrictive provision shall apply.

6. **Meteorological towers (Met Towers).** For the purpose of the Wind Energy Conversion System Ordinance, meteorological towers are those towers which have been temporarily installed to measure wind speed and directions plus other data relevant to siting WECS. Installations of temporary (up to one year) meteorological towers shall be considered through the Temporary Use Permit process pursuant to Chapter 22.50 (Temporary Use Permits).

B. Development standards.

1. **Small WECS (Ministerial).** A Building Permit for a Small WECS located in an agricultural zoning district pursuant to this Section shall be issued by the Agency Director upon submission of a Building Permit application containing the information specified in applicable sections of this Development Code and a determination by the Agency Director that the proposed use and development meets the development standards in Section 22.32.180.F and Sections 22.32.180.G.1, G.2, G.5, G.6, G.7, and G.9.a. Before issuance of a building permit, the County shall record a notice of decision against the title of the property stipulating that the WECS must be dismantled and removed from the premises if it has been inoperative or abandoned for a period of more than one year.
2. **Small WECS (Discretionary).**
 - a. Small WECS shall be subject to the development standards in Section 22.32.180.B.5 (Table 3-9). Exceptions to the standards in Section 22.32.180.B.5 (Table 3-9) for Small WECS shall be considered through the Use Permit process pursuant to Chapter 22.48 (Use Permits).
 - b. Small WECS shall comply with the development standards and requirements contained in Section 22.32.180.C through Section 22.32.180.H.
3. **Medium WECS.**
 - a. Medium WECS shall be subject to the development standards in Section 22.32.180 B.5 (Table 3-9). Exceptions to the standards in Section 22.32.180 B.5 (Table 3-9) for Medium WECS shall be considered through the Use Permit process pursuant to Chapter 22.48 (Use Permits).
 - b. Medium WECS shall comply with the development standards and requirements contained in Section 22.32.180.C through Section 22.32.180.H.
4. **Large WECS.**
 - a. Large WECS shall be subject to the development standards in Section 22.32.180.B.5 (Table 3-9). Exceptions to the standards in Section 22.32.180 B.5 for Large WECS shall be considered through the Master Plan process pursuant to Chapter 22.44 (Master Plans and Precise Development Plans) or Use Permit process pursuant to Chapter 22.48 (Use Permits).

- b. Prior to approval, Large WECS are subject to submittal of a comprehensive WECS Environmental Assessment prepared by a qualified consultant approved by the Marin County Environmental Coordinator. The WECS Environmental Assessment shall be prepared in consultation with the County to determine the development capabilities and physical and policy constraints of the property. The WECS Environmental Assessment shall include a mapped inventory and data base of the biological and physical characteristics of the project area. The WECS Environmental Assessment shall include a mapped delineation of the project site's sensitive environmental areas including, but not necessarily limited to: earthquake fault zones, geological hazardous areas, wetlands, watercourses and water bodies, prime agricultural lands, special status species habitats, prominent ridgelines, view corridors, and wind zones. The WECS Environmental Assessment shall include a Bird and Bat Study, as defined in Section 22.32.180.G.9. Based upon the findings, constraints, conclusions and recommendations of the WECS Environmental Assessment, specific requirements for siting and design shall be identified.
- c. Large WECS shall comply with the development standards and requirements contained in Section 22.32.180.C through Section 22.32.180.H.
- d. The maximum number of Large WECS that is allowed per parcel shall be established through the permit process.

6. **Development Standards** are outlined in Table 3-9 below.

**TABLE 3-9
WECS DEVELOPMENT STANDARDS**

	Small				Medium			Large
	Roof-Mounted	Non-Grid-Tied Agricultural Uses		Freestanding	Freestanding			Freestanding
Total Height	≤ 10 feet (above roof line)	≤ 40 feet	> 40 – ≤ 100 feet	≤ 40 feet	> 40 – ≤ 100 feet	>100 – ≤ 150 feet	> 150 – ≤ 200 feet	> 200 feet
Min. Height of Lowest Position of Blade Above Grade	Not applicable	15 feet	15 feet	15 feet	15 feet	30 feet	30 feet	30 feet
Max. Rotor Blade Radius (HAWT)/ Max. Rotor Blade Diameter (VAWT)	7.5 feet/5 feet	0.5 x tower height/5 feet	0.5 x tower height/5 feet	0.5 x tower height/5 feet	0.5 x tower height	0.5 x tower height	0.5 x tower height	Project specific
Min. Setback from Tip of Blade to Property Line	0.5 x total height	0.5 x total height	0.5 x total height	0.5 x total height	1 x total height	1.5 x total height	2 x total height	2 x total height
Max. Units/Parcel	1	1	1	1	2	2	2	Project specific
Min. Unit Separation	Not applicable	Not applicable	Not applicable	Not applicable	1 x tower height	1 x tower height	1 x tower height	Project specific

Min. Setback from Habitable Structures	Not applicable	1 x total height	1 x total height	1 x total height	1 x total height	1 x total height	1 x total height	2 x total height
Min. Setback from Prominent Ridgeline	Not applicable	Not applicable	Minimum of 300 feet horizontally or 100 feet vertically	Not applicable	Minimum of 300 feet horizontally or 100 feet vertically	Minimum of 300 feet horizontally or 100 feet vertically	Minimum of 300 feet horizontally or 100 feet vertically	Minimum of 300 feet horizontally or 100 feet vertically

- C. Public notice.** Where required, a Notice of the required application(s) shall be provided in compliance with Section 22.118.020 (Notice of Hearing or Administrative Action).

Notice of a discretionary permit application for any WECS within five miles of Federal, State, or regional park property shall be provided to the superintendent of the appropriate park.

D. Site and design requirements:

1. **General standards.** No Small, Medium, or Large WECS or supporting infrastructure shall be allowed:
 - a. Within five times the total height or 300 feet, whichever is greater, of a known nest or roost of a listed State or Federal threatened or endangered species or California Department of Fish and Game designated bird or bat 'species of special concern' (unless siting of the WECS preceded nest or roost establishment) based on the findings and conclusions of the required Bird and Bat Study as defined in Section 22.32.180 G.9 (Application submittal requirements).
 - b. Within five times the total height or 300 feet, whichever is greater, of a known or suspected avian migratory concentration point based on the findings and conclusions of the required Bird and Bat Study as defined in Section 22.32.180 G.9.
 - c. Within 1.5 times the total height or 100 feet, whichever is greater, of a Stream Conservation Area (SCA), a Wetlands Conservation Area (WCA), a State or Federal listed special status species habitat area, a designated archaeological or historical site, or a water course, wetland, pond, lake, bayfront area habitat island, or other significant water body with suitable avian habitat based on the findings and conclusions of Bird and Bat Study as defined in Section 22.32.180 G.9.
 - d. Where prohibited by any of the following:
 1. The Alquist-Priolo Earthquake Fault Zoning Act.
 2. The terms of any conservation easement or Williamson Act contract.
 3. The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources.

E. Appearance and visibility:

In addition to any conditions which may be required by Master Plan and Precise Development Plan or Design Review and Use Permit approvals, Small, Medium, and Large WECS shall comply with the following design standards:

1. WECS shall be located downslope a minimum of 300 feet horizontally or 100 feet vertically, whichever is more restrictive, from a visually prominent ridgeline, unless it can be demonstrated through submittal of a County accepted Wind Measurement Study that no other suitable locations are available on the site. If this is the case, then the Wind Study will be one amongst all other standards that would be evaluated in considering whether and where the WECS application should be approved within the ridge setbacks.
2. WECS shall be designed and located to minimize adverse visual impacts from public viewing places, such as roads, trails, scenic vistas, or parklands and from adjacent properties.
3. No wind turbine, tower, or other component associated with a WECS may be used to advertise or promote any product or service. Brand names or advertising associated with any WECS installation shall not be visible from offsite locations. Only appropriate signs warning of the WECS installation are allowed.
4. Colors and surface treatments, materials and finishes of the WECS and supporting structures shall minimize visual disruption. Exterior materials, surfaces, and finishes shall be non-reflective to reduce visual impacts.
5. Exterior lighting on any WECS or associated structure shall not be allowed except that which is specifically required in accordance with Federal Aviation Administration (FAA) regulations. Wind tower and turbine lighting must comply with FAA requirements and be at the lowest intensity level allowed.
6. WECS shall be located in a manner which minimizes their visibility from any existing Federal parklands.
7. All new electrical wires and transmission lines associated with WECS shall be placed underground except for connection points to a public utility company infrastructure. This standard may be modified by the Director if the project area is determined to be unsuitable for undergrounding of infrastructure due to reasons of excessive grading, biological impacts, or similar factors.
8. Construction of on-site access routes, staging areas, excavation, and grading shall be minimized. Excluding the permanent access roadway, areas disturbed due to construction shall be re-graded and re-vegetated to as natural a condition as soon as feasibly possible after completion of installation.
9. All permanent WECS related equipment shall be weather-proof and tamper-proof.
10. If a climbing apparatus is present on a WECS tower, access control to the tower shall be provided by one of the following means:
 - a. Tower-climbing apparatus located no closer than 12 feet from the ground;
 - b. A locked anti-climb device installed on the tower; or

- c. A locked, protective fence at least six feet in height that encloses the tower.
 - 11. WECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
 - 12. Latticed towers shall be designed to prevent birds from perching or nesting on the tower.
 - 13. The use of guy wires shall be avoided whenever feasible. If guy wires are necessary, they shall be marked with bird deterrent devices as recommended by the U S Fish and Wildlife Service or the California Department of Fish and Game.
- F. Noise.** Small, Medium, and Large WECS shall not result in a total noise level that exceeds 50 dBA during the daytime (7:00 AM to 10:00 PM) and 45 dBA during the nighttime (10:00 PM to 7:00 AM) as measured at any point along the common property lines of adjacent properties except during short-term events such as utility outages, severe weather events, and construction or maintenance operations, as verified by specifications provided by the manufacturer.
- G. Application submittal requirements.** Small, Medium, and Large WECS permit applications shall include, but may not be limited to, the following information:
- 1. A plot plan of the proposed development drawn to scale showing:
 - a. Acreage and boundaries of the property;
 - b. Location of all existing structures, their use and dimensions within five times the height of the proposed WECS;
 - c. Location within a distance of five times the total height of the proposed WECS of all wetlands, ponds, lakes, water bodies, watercourses, listed State or Federal special status species habitats, habitat islands, and designated archaeological or historical sites;
 - d. Location of all proposed WECS and associated structures, and their designated use, dimensions, and setback distances;
 - e. Location of all areas to be disturbed by the construction of the proposed WECS project including access routes, trenches, grading and staging areas; and
 - f. The locations and heights of all trees taller than 15 feet within five times the height of the proposed WECS and the locations, heights, and diameters (at breast height) of all trees to be removed.
 - 2. Elevations of the components of the proposed WECS.
 - 3. A description of the measures taken to minimize adverse noise, transmission interference, and visual and safety impacts to adjacent land uses including, but not limited to, over-speed protection devices and methods to prevent public access to the structure.

4. A post-installation erosion control, revegetation, and landscaping plan.
5. Standard drawings and an engineering analysis of the system's tower, showing compliance with the Uniform Building Code (UBC), the International Building Code (IBC) or the California Building Code and certification by a professional mechanical, structural, or civil engineer licensed by this state. However, a wet stamp shall not be required, provided that the application demonstrates that the system is designed to meet the UBC or IBC requirements for wind exposure D, the UBC or IBC requirements for Seismic Zone 4, and the requirements for a soil strength of not more than 1,000 pounds per square foot, or other relevant conditions normally required by a local agency.
6. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.
7. Written evidence that the electric utility service provider that serves the proposed site has been informed of the owner's intent to install an interconnected customer-owned electricity generator, unless the owner does not plan, and so states so in the application, to connect the system to the electricity grid.
8. Wind Measurement Study. A wind resource assessment study, prepared by a qualified consultant approved by the Marin County Environmental Coordinator, may be required. The study shall be performed for a minimum 6-month period during prime wind season, at the proposed site prior to the acceptance of an application. The study may require the installation of a meteorological tower, erected primarily to measure wind speed and directions plus other data relevant to appropriate siting. The study shall include any potential impacts on, or in conjunction with, existing WECS within a minimum of two miles of the proposed WECS site.
9. Bird and Bat Study. Before issuance of County building or planning permit approvals:
 - a. All WECS projects shall require the submittal of a Bird and Bat Study prepared by a qualified consultant approved by the Marin County Environmental Coordinator using the "California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development" (California Energy Commission and California Department of Fish and Game), or any superseding State or Federal Guidelines, the State Natural Diversity Data Base, Partners in Flight Data Base, the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and field data and counts from local environmental groups. The Bird and Bat Study shall identify any listed State or Federal threatened or endangered species, California Department of Fish and Game designated bird or bat 'species of special concern', or raptors found to nest or roost in the area of the proposed WECS site. The study shall identify periods of migration and roosting and assess pre-construction site conditions and proposed tree removal of potential roosting sites. The Community Development Agency will maintain an inventory of all Bird and Bat Studies that are filed pursuant to the requirements of the WECS ordinance on the Agency's website. If the Bird and Bat Study for a proposed ministerial Small WECS project finds that there is a potential for impacts to any listed State or Federal threatened or endangered species or California Department of Fish and Game designated bird or bat 'species of special concern' found to nest or roost in the area of the proposed WECS site, the project will become discretionary and require a Resource Management and Contingency Plan as described in G.9.b. below.

- b. Small, Medium, and Large WECS projects shall require the Bird and Bat Study to include a Resource Management and Contingency Plan to: (1) provide for pre-approval and post-construction monitoring and reporting; and (2) provide mitigation to reduce bird and bat mortality rates, if necessary.
- 10. Visual Simulations. Visual simulations taken from off-site views, including from adjacent properties, as determined by the Community Development Agency shall be submitted showing the site location with the proposed WECS installed on the proposed site.
- 11. Project-Specific Acoustical Analysis. A project-specific acoustical analysis may be required that would simulate the proposed WECS installation to assure acceptable noise levels and, if necessary, provide measures to comply with applicable County noise standards.

H. Post approval requirements. Small, Medium, and Large WECS permit applications shall be subject to the following:

- 1. A post-construction avian and bat monitoring program may be required of the owner during periods of nesting, roosting, foraging, and migration. The application of this requirement shall be in accordance with criteria established by a governmental agency, such as the U. S. Fish and Wildlife Service (USFWS) or the California Department of Fish and Game (CDFG), or by PRBO Conservation Science. The required monitoring program shall be conducted by a professional biologist or an ornithologist approved by the Marin County Environmental Coordinator. Monitoring protocol shall be utilized as set forth in the “California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development” (California Energy Commission and California Department of Fish and Game). Operation of a WECS determined to be detrimental to avian or bat wildlife may be required to cease operation for a specific period of time or may be required to be decommissioned.
- 2. Before issuance of a building permit, the owner/operator of any discretionary WECS shall enter into a WECS Decommissioning and Reclamation Plan and Agreement with the County, outlining the anticipated means and cost of removing the WECS at the end of its serviceable life or upon becoming a discontinued use if it remains inoperable for a period of more than one year . The owner/operator shall post suitable financial security as determined by the County in order to guarantee removal of any WECS that is non-operational or abandoned. The plan must include in reasonable detail how the WECS will be dismantled and removed. The WECS must be dismantled and removed from the premises if it has been inoperative or abandoned for a period of more than one year. The WECS Decommissioning and Reclamation Plan (Plan) shall include removal of all equipment and may require removal of all foundations and other features such as fencing, security barriers, transmission lines, disposal of all solid and hazardous waste in accordance with local, State and Federal regulations, and access roads to the satisfaction of the Director. The Plan shall include restoration of the physical state as existed before the WECS was constructed, and stabilization and re-vegetation of the site as necessary to minimize erosion. The owner/operator, at his/her expense shall complete the removal within 90 days following the one-year period of non-operation, useful life, or abandonment, unless an extension for cause is granted by the Director or a plan is submitted outlining the steps and schedule for returning the WECS to service to the satisfaction of the Director. The WECS Decommissioning and Reclamation Plan Agreement shall be recorded by the Community Development Agency against the title

of the property.

3. Any encumbrances placed on a parcel or parcels due to the installation of a WECS system shall remain in effect for as long as the WECS is on the site, and these encumbrances shall hold equal weight and be cumulative with respect to other limitations on the development of the parcel or parcels. Such encumbrances may not be the basis for granting variances or any other exception to the Marin County Development Code or Marin Countywide Plan regardless of any other additional development constraints imposed on the parcel or parcels. It is the owner's due diligence responsibility to ensure the siting of the WECS will not impose future development restrictions that are unacceptable to the owner.
4. Construction monitoring of individual projects may be required to include, but not be limited to, surveys and/or inspections as needed, to ensure on-site compliance with all permit requirements, until implementation of requirements is complete.
5. Upon the completion of construction and before final inspection, solid and hazardous wastes, including, but not necessarily limited to, packaging materials, debris, oils and lubricants, shall be removed promptly from the site and disposed of in accordance with all applicable County, State and Federal regulations. No hazardous materials shall be stored on the WECS site.

Chapter 22.60 – Purpose and Applicability of Coastal Zone Regulations

Sections:

22.60.010 – Purpose of Article

22.60.020 – Applicability

22.60.030 – Consistency with Coastal Act

22.60.010 – Purpose of Article

This Article ~~provides~~ identifies permit requirements and development standards for proposed development ~~and new land uses, as defined in Article VIII,~~ in the unincorporated areas of Marin County within the Coastal Zone established by the California Coastal Act of 1976. This Article implements applicable ~~policies-provisions~~ of the Coastal Act and the Marin County Local Coastal Program (LCP) Land Use Plan (LUP), which, among other things identify the location and density of development, provide for visitor-serving facilities, provide for public access to and along the coast, and protect significant public views and natural resources. Chapters 22.60 through 22.70 inclusive, along with portions of Chapters 22.32 (Standards for Specific Land Uses) and 22.130 (Definitions) that apply in the coastal zone, and zoning district maps together constitute the LCP's Implementation Plan.

22.60.020 – Applicability

The requirements of this Article apply to all proposed development ~~and new land uses, as defined in Article VIII,~~ within the Coastal Zone. These requirements apply in addition to all other applicable provisions of this Development Code. In the event of any perceived conflict between the requirements of ~~this Article~~ the LCP's Implementation Plan and any other provisions of this Development Code, ~~the is Article~~ Implementation Plan shall control.

22.60.030 – Consistency with Coastal Act

All development in the Coastal Zone within the County's coastal permitting jurisdiction shall be consistent with the Marin County LCP and, where located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, be supported by a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. ~~, specifically the Public Access and Recreational Policies (Public Resources Code Chapter 6, Sections 30200, 30210, 30211, 30212, 30212.5, 30213, 30220, 30221, 30222, and 30223).~~ The process of review and approval of any project shall also be consistent with ~~the appeals section of the Coastal Act (Chapter 6, Section 30603, Paragraphs A and B).~~

Chapter 22.62 – Coastal Zoning Districts and Allowable Land Uses

Sections:

- 22.62.010 – Purpose of Chapter
- 22.62.020 – Applicability
- 22.62.030 – Coastal Zoning Districts Established
- 22.62.040 – Allowable Land Uses and Permit Requirements
- 22.62.050 – Coastal Zoning District Regulations
- 22.62.060 – Coastal Agricultural and Resource-Related Districts
- 22.62.070 – Coastal Residential Districts
- 22.62.080 – Coastal Commercial and Mixed-Use Districts
- 22.62.090 – Coastal Special Purpose and Combining Districts

22.62.010 – Purpose of Chapter

This Chapter establishes the zoning districts in areas of the County within the Coastal Zone as mapped on the certified maps for the Marin County Local Coastal Program, identifies allowable uses within those ~~determines how the zoning districts are applied on the official Zoning Maps,~~ and provides ~~identifies~~ general permit requirements for development within those zoning districts.

22.62.020 – Applicability

The provisions of this Chapter apply to all property within the Coastal Zone, including county, state, school, and special district property, but not including federal property. ~~This Chapter shall not apply to~~ Consistent with Coastal Act Section 30519(b), for development proposed or undertaken on any tidelands, submerged lands, or on public trust lands, whether filled or unfilled, development shall be reviewed against the Coastal Act by the Coastal Commission, and the County LCP in those cases may provide non-binding guidance where a Coastal Commission Permit is required pursuant to Public Resources Code Section 30519(b).

22.62.030 – Coastal Zoning Districts Established

The unincorporated areas of Marin County within the Coastal Zone shall be divided into zoning districts which consistently implement the Marin Countywide Plan and Marin County Local Coastal Program. The following coastal zoning districts are established, and shall be shown on the official Zoning Map (Section 22.06.030 (Zoning Map Adopted)).

A. Agricultural and Resource-Related Districts

Map Symbol

Coastal, Agricultural Production Zone	C-APZ
Coastal, Agricultural, Residential Planned	C-ARP
Coastal, Open Area	C-OA

B. Residential Zoning Districts

Coastal, Residential, Agricultural	C-RA
Coastal, Residential, Single-Family	C-R1
Coastal, Residential, Single-Family Planned	C-RSP
Coastal, Residential, Single-Family Planned, Seadrift Subdivision	C-RSPS

C. Commercial and Mixed-Use Zoning Districts	Coastal, Residential, Two-Family	C-R2
	Coastal, Residential, Multiple Planned	C-RMP
	Map Symbol	
	Coastal, Village Commercial/Residential	C-VCR
	Coastal, Limited Roadside Business	C-H1
	Coastal, Planned Commercial	C-CP
	Coastal, Residential/Commercial Multiple Planned	C-RMPC
	Coastal, Resort and Commercial Recreation	C-RCR
D. Special Purpose and Combining Districts		
	Coastal, Public Facilities	C-PF
	Coastal, Minimum Lot Size	B

22.62.040 – Allowable Land Uses and Coastal Permit Requirements

- A. General requirements for allowed uses.** Proposed development, as defined in Article VIII, located within the Coastal Zone shall be consistent with ~~land use~~ definitions in Article VIII, and comply with Chapter 22.32 (Standards for Specific Land Uses) and other applicable provisions of this Article.
- B. Coastal zone permit requirements.** Unless exempted or Categorically Excluded, proposed development within the Coastal Zone shall require approval of a Coastal Permit in compliance with Chapter 22.68 (Coastal Permit Requirements), in addition to any non-coastal ~~land use~~ permits required by the Development Code and Section 22.62.040.B.

The uses of land allowed by this Chapter in each coastal zoning district are identified in Tables 5-1, 5-2, and 5-3 (Allowable Land Uses for the Coastal Agricultural and Resource Related Districts, Coastal Residential Districts, and Coastal Commercial and Mixed/Use Districts, respectively) as being:

1. Uses ~~allowed by right~~ for which no Coastal Permit is required are those as specified in applicable Categorical Exclusion Orders issued by the California Coastal Commission or determined exempt under Coastal Permit Requirements herein (Chapter 22.68). These uses are shown as "E" in the tables and are only exempt if they meet the conditions and limitations set forth in the applicable Exclusion Order and Chapter 22.68.
2. Principally permitted uses, subject to compliance with all applicable provisions of this Development Code, Coastal Permit approval where required, and subject to first obtaining any Building Permit and other non-coastal permits required by the County Code. ~~The A~~ Coastal Permit decision for a principal permitted use is appealable to the Coastal Commission only if the project is located in a geographic appeals area as defined by Section 22.70.080(B)(1)(a) and (b), or if the project constitutes a major public works project or major energy facility. Any development that also requires the granting of a Coastal Zone Variance shall not be considered a principal permitted use. Land divisions are not the principally permitted use in any zoning district. Principal permitted uses are shown as "PP" uses in the tables.
3. Permitted uses, subject to compliance with all applicable provisions of this Development Code, Coastal Permit approval where required, and subject to first obtaining any Building

Permit and other non-coastal permits required by the County Code. ~~The~~ A Coastal Permit decision for a permitted use is appealable to the Coastal Commission. Permitted uses are shown as "P" uses in the tables.

4. Conditional uses, subject to compliance with all applicable provisions of this Development Code, Coastal Permit approval where required, and subject to first obtaining any Building Permit and other non-coastal permits required by the County Code, including approval of a Use Permit (Chapters 22.48 and 22.50). The Use Permit is not part of the Coastal Permit and is not subject to appeal to the Coastal Commission; however, any Coastal Permit decision for a conditional use is appealable to the Coastal Commission. Conditional uses are shown as "U" uses in the tables. [See Section 22.70.080 for Appeal of Coastal Permit Decisions]
5. Land uses that are not listed in Tables 5-1, 5-2, and 5-3 or are not shown in a particular zoning district are not allowed, ~~except where otherwise provided by Section 22.06.040.B (Determination of Allowable Land Uses), or 22.68.050 (Exempt Projects).~~

C. Master Plan and Other Non-Local Coastal Program Permit Requirements. In addition to and independent of permits required for conformance with the Marin County Local Coastal Program, a Master Plan and/or other local permit such as a Second Unit Permit may be required for certain uses. Please refer to Articles II-IV, VI, and VII for development standards that govern these uses. A Master Plan is required only for the following uses:

1. A subdivision which does not exhaust the potential for residential development based on the Countywide Plan and zoning district densities and floor area ratios.
2. Airparks
3. Cemeteries, columbariums, mausoleums
4. Marinas and harbors
5. Mineral resource extraction
6. Waste disposal sites

22.62.050 – Coastal Zoning District Regulations

- A. Purpose.** Sections 22.62.0460 through 22.62.080 and Chapter 22.64 determine which land uses are allowable in each zoning district, what land use permits are ~~is~~ required to establish each use, and the ~~basic~~ development standards that apply to allowed land uses in each of the zoning districts established by Section 22.62.030 (Coastal Zoning Districts Established).
- B. Single parcel in two zoning districts.** In the event two or more parcels are consolidated through the approval of a lot line adjustment, merger, parcel or Tentative Map, or reversion to acreage in compliance with Article VI (Subdivisions), where a single parcel is covered by two or more zoning districts, the consolidated parcel should be reviewed by the Director to determine whether the parcel should be rezoned to a single zoning district.
- C. Measurements, calculations.** Explanations of how height limits, site coverage requirements, and floor area ratios (FAR) apply to sites and projects are in Chapter 22.64 (Coastal Zone Development and Resource Management Standards).

22.62.060 – Coastal Agricultural and Resource-Related Districts

A. Purpose of Section. This Section provides regulations for development, as defined in Article VIII ~~and, proposed within the coastal agricultural and resource-related zoning districts established consistent with Local Coastal Program policies by Section 22.62.030 (Coastal Zoning Districts Established).~~ The purpose of these zoning districts is to protect agricultural land, continued agricultural uses and the agricultural economy by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, and prohibiting uses that are incompatible with long-term agricultural production or the rural character of the County's Coastal Zone and to preserve important soils, agricultural water sources, and forage to allow continued agricultural production on agricultural lands. (Policy C-AG-1)

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 agriculture, is limited to the types of agricultural development set forth below and in Land Use Plan Policy C-AG-2, and only allowed when consistent with the development standards set forth in Section 22.65.040:

~~a~~Agricultural production; 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, mariculture, horticulture, viticulture, vermiculture, forestry crops, and plant nurseries; substantially similar uses of an equivalent nature and intensity;

Agricultural accessory structures ~~or~~ and agricultural accessory uses—activities appurtenant and necessary to the operation of agricultural uses for agricultural production, 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);

Agricultural dwelling units: farmhouses, intergenerational homes, and agricultural worker housing;

Agricultural product sales and processing; and

Not-for-profit educational tours. (Policy C-AG-2)

Conditional uses in the C-APZ zone include a second intergenerational home per legal lot, for-profit educational tours, agricultural homestay facilities, agricultural worker housing above 12 units or 36 beds per legal lot, and additional agricultural uses and non-agricultural uses including land division, and residential development potentially up to the

~~zoning density~~, consistent with Section 22.65.040 Policies C-AG-7, 8 and 9. ~~Conditional residential development~~ shall not exceed a maximum density of 1 residential unit per 60 acres. Densities specified in the zoning are maximums and not entitlements, and ~~that~~ may not be achieved when the standards of the Agriculture policies and, as applicable, other LCP policies are applied. (Policy C-AG-1, 2).

The C-APZ zoning district is consistent with the Agriculture 1 land use category of the Marin County Land Use Plan Local Coastal Program.

2. **C-ARP (Coastal, Agricultural, Residential Planned) District.** The C-ARP district applies to lands adjacent to residential areas, ~~and at the edges of Agricultural Production Zones~~ in the Coastal Zone that have potential for agricultural production but promote the concentration of residential development to maintain the maximum amount of land available for agricultural use ~~but do not otherwise qualify for protection under the C-APZ zone~~. The C-ARP district provides flexibility in lot size and building locations to concentrate development to maintain the maximum amount of land for agricultural use, and to maintain the visual, natural resource and wildlife habitat values of subject properties and surrounding areas. The C-ARP district requires the grouping-clustering of proposed development. The C-ARP zoning district is consistent with the Agriculture 1, 2, and 3 land use categories of the Marin County Land Use Plan Local Coastal Program. Residential use shall be the principal permitted use in all parcels with the land use designation of C-AG3; Agriculture shall be the principal permitted use in all parcels with the C-AG1 and C-AG2 land use designations. (Policy C-AG-3)

3. **C-OA (Coastal, Open Area) District.** The C-OA District provides for open space, outdoor recreation, and other open lands, including areas particularly suited for park and recreational purposes, access to beaches, natural drainage channels, and areas that serve as links between major recreation and open space reservations. The C-OA zoning district is consistent with the Public and Quasi Public - Open Space land use category of the Marin County Land Use Plan Local Coastal Program.

C. **Allowed land uses and permit requirements in agricultural/resource districts.** Table 5-1 lists the land uses allowed in the agricultural/resource zoning districts within the Coastal Zone, in compliance with Chapter 22.62 (Coastal Zoning Districts and Allowable Land Uses).

D. **Development standards for agricultural- and resource-related districts.** Proposed ~~uses and development~~, as defined and consistent with the definitions in Article VIII, shall comply with ~~the all~~ provisions of the LCP, including Chapters 22.32 as applicable (Standards for Specific Land Uses), this Chapter, Chapter 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements);.

~~E. Residential Development Impacts and Agricultural Use. Ensure that lands designated for agricultural use are not de facto converted to residential use, thereby losing the long term productivity of such lands.~~

1. ~~Residential development shall not be allowed to diminish current or future agricultural use of the property or convert it to primarily residential use.~~

~~(b) Any proposed residential development subject to a Coastal Permit shall comply with LCP policies including ensuring that the mass and scale of new or expanded structures respect environmental site constraints and the character of~~

~~the surrounding area. Such development must be compatible with ridge protection policies and avoid tree cutting and grading wherever possible.~~

~~(c) The County shall exercise its discretion in light of some or all of the following criteria and for the purpose of ensuring that the parcel does not de facto convert to residential use:~~

~~(1) The applicant's history of production agriculture.~~

~~(2) How the long term agricultural use of the property will be preserved—for example, whether there is an existing or proposed dedication or sale of permanent agricultural easements or other similar protective agricultural restrictions, such as Williamson Act contract or farmland security zone.~~

~~(3) Whether long term capital investment in agriculture and related infrastructure, such as fencing, processing facilities, market mechanisms, agricultural worker housing or agricultural leasing opportunities, has been established or is proposed to be established.~~

~~(4) Whether sound land stewardship practices, such as organic certification, riparian habitat restoration, water recharge projects, fish friendly farming practices, and/or erosion control measures, have been or will be implemented.~~

~~(5) Whether the proposed residential development will facilitate the ongoing viability of agriculture such as through the intergenerational transfer of existing agricultural operations.~~

~~(c) In no event shall a single family residence subject to these provisions exceed 7,000 square feet in size. Where one or two intergenerational residence units are allowed in the C APZ zone, the aggregate residential development on the subject legal lot shall not exceed 7,000 square feet.~~

~~(d) The following shall be excluded from the 7,000 square foot limitation:~~

~~(1) Agricultural worker housing;~~

~~(2) Up to 540 square feet of garage space for each residence unit;~~

~~(3) Agricultural accessory structures; and~~

~~(4) Up to 500 square feet of office space in the farmhouse used in connection with the agricultural operation on the property.~~

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

[BOS app. 10/2/12, 11/13/2012, 1/15/2013, 2/26/2013]

**TABLE 5-1-a - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL
AGRICULTURAL & RESOURCE-RELATED DISTRICTS**

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
	C-APZ Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	
AGRICULTURE, MARICULTURE				
Agricultural accessory activities	PP <u>(8)</u> , E	PP, E	PP, E	22.32.021
Agricultural accessory structures	PP <u>(8)</u> , E	PP, E	PP, E	22.32.022
Agricultural homestays, 3 or fewer guest rooms	PP <u>U (6)</u> , (40)	PP (10)	—	22.32.023 22.32.115
Agricultural homestays, 4 or 5 guest rooms	<u>U (6)</u> , (40)	U(10)	—	22.32.023 22.32.115
Agricultural Intergenerational Home (first) <u>on legal lots 120 acres or larger and meeting all development standards set forth in 22.65.040(C)(1)(e)(1-9) and 22.32.024</u>	PP <u>(8)</u>	--	—	22.32.024
<u>Agricultural Intergenerational Home (first) on legal lots 120 acres or larger and meeting all development standards set forth in 22.65.040(C)(1)(e)(1-8) and 22.32.024</u>	<u>P</u>	—	—	<u>22.32.024</u>
Agricultural Intergenerational Home (second) <u>on legal lots 180 acres or larger</u>	U	--	—	22.32.024
Farmhouse (for C-APZ parcels only: <u>on legal lots 60 acres or larger and meeting all development standards set forth in 22.65.040(C)(1)(e)(1-9) and 22.32.025</u>)	PP (8)	PP	—	22. 32.025
<u>Farmhouse (for C-APZ parcels only: on legal lots 60 acres or larger and meeting development standards set forth in 22.65.040(C)(1)(e)(1-8) and 22.32.025)</u>	<u>P</u>	—	—	<u>22.32.025</u>
Agricultural processing uses (≤5,000 sqft.) <u>(for C-APZ parcels only: meeting all development standards set forth in 22.65.040(C)(1)(f))</u>	PP <u>(8)</u>	U	—	22.32.026
Agricultural processing uses (≤5,000 sqft.) <u>(for C-APZ parcels only: not meeting all development standards set forth in 22.65.040(C)(1)(f))</u>	U	U —	—	22.32.026
Agricultural production	PP <u>(8)</u> , E	PP, E	P	22.32.030
<u>Agricultural Retail Sales Facility/Farm Stand</u> Agricultural product sales (≤500 sqft.) meeting all development standards set forth in 22.65.040(C)(1)(f)	PP <u>(8)</u>	PP	U	22.32.027
<u>Agricultural Retail Sales Facility/Farm Stand</u> Agricultural product sales (>500 sqft.) not meeting development standards set forth in 22.65.040(C)(1)(f)	U	U	U	22.32.027
Agricultural worker housing <u>up to and including 12 units/36 beds (for C-APZ parcels only: meeting all development standards set forth in 22.65.040(C)(1)(e)(1-9) and 22.32.023)</u>	PP <u>(8)</u>	PP	U	22.32.028
<u>Agricultural worker housing above 12 units/36 beds (for C-APZ parcels only: meeting all development standards set forth in 22.65.040(C)(1)(e)(1-8) and 22.32.023)</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>22.32.028</u>
Commercial gardening	PP, E	P	P	
Dairy operations	PP, E	P	P(4)	22.32.030
Educational tours (non-profit not-for-profit or	PP	PP	PP	22.32.062

owner/operator)				22.32.115
Educational tours (for-profit)	U	P	P	22.32.062
Fish hatcheries and game reserves	U	P	P	
Livestock operations, grazing	PP, E(5)	P(5)	P	22.32.030
Livestock operations, large animals	PP, E(5)	P(5)	—	22.32.030
Livestock operations, sales/feed lots, stockyards	P(5)	P(5)	—	22.32.030
Livestock operations, small animals	PP, E(5)	P(5)	—	22.32.030
Mariculture/aquaculture	PP	PP	—	22.32.105
Plant nurseries	PP	PP		
Raising of other food and fiber producing animals not listed under “agricultural production”	U	U	—	22.32.030

[BOS app. 1/15/2013]

KEY TO PERMIT REQUIREMENTS

Symb ol	Permit Requirements
E	Certain uses may be exempt or Categorically Excluded from permit requirements.
PP	Principal permitted use. (2)
P	Permitted use. (2)
U	Conditional use, Use Permit required. (2)
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).
- (2) ~~See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses. Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.~~
- (4) Dairy operations allowed only on a site of 50 acres or larger.
- (5) Permit requirements are determined by Section 22.32.030 (Animal Keeping).
- (6) Only allowed where an agricultural dwelling is first approved.
- (8) ~~Only one single family dwelling per legal lot allowed (does not include intergenerational homes or agricultural worker housing). To create additional parcels and additional single family homes, see also 22.86 (Subdivisions). The principal permitted use of land in the C-APZ district is agriculture, limited to the types of agricultural development set forth in Section 22.65.040.~~
- (10) Only allowed when the primary use of the property is for agriculture; ~~see Section 22.32.115 (Non-Agricultural Uses).~~ The non-agricultural standards contained in Section 22.32.115 do not apply to C-ARP zoned properties with an assigned density of one unit per 1-5 acres.

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

TABLE 5-1-b - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL AGRICULTURAL & RESOURCE-RELATED DISTRICTS (Continued)

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
	C-APZ Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	
MANUFACTURING AND PROCESSING USES				
Cottage industries	—	U	—	22.32.060
Recycling - Scrap and dismantling yards	—	U	—	
RECREATION, EDUCATION, AND PUBLIC ASSEMBLY USES				
Campgrounds	U	U	U	
Educational Tours (for profit)	U	U	P	22.32.115
Equestrian facilities	U	P (9)	U	22.32.030
Golf courses/country clubs	—	—	U	
Horses, donkeys, mules, ponies	P/U(5)	P/U(5)	U(5)	22.32.030
Hunting and fishing facilities (Private)	U	P	U	
Hunting and fishing facilities (Public)	U	U	U	
Libraries and museums	—	U	U	
Off-road vehicle courses	—	U	—	
Private residential recreational facilities	U	U	U	
Public Parks and playgrounds	U	U	P	
Religious places of worship	—	U	U	
Rural recreation	—	U	U	
Schools	—	U	U	

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements
E	Certain uses may be exempt or Categorically Excluded from permit requirements.
PP	Principal permitted use. (2)
P	Permitted use. (2)
U	Conditional use, Use Permit required. (2)
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).
~~(2) See Chapter 22.42 (Design Review) for separate, non coastal permit Design Review requirements for all uses. Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.~~
 (5) Permit requirements are determined by Section 22.32.030 (Animal Keeping).
 (9) Equestrian employee housing is permitted with Use Permit approval (See Chapter 22.48 Use Permits)

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

TABLE 5-1-c – ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL AGRICULTURAL & RESOURCE-RELATED DISTRICTS (Continued)

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
	C-APZ Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	
RESIDENTIAL USES				
Affordable housing	U	P	U	Chapter 22.22
Group homes, 6 or fewer residents	P (6)	P	—	22.32.080
Group homes, 7 or more residents	U (6)	U	—	22.32.080
Guest houses	—	P(6)	P(6)	22.32.090
Home occupations	P (6), (40)	P	P(6)	22.32.100 22.32.115
Religious residential retreats	—	U	—	
Residential Agricultural Dwelling Unit accessory uses and structures	P(6)	P(6)	P(6)	22.32.130
Residential care facility, 6 or fewer individuals	P (6)	P	—	22.32.080
Residential care facility, 7 or more individuals	U (6)	U	—	22.32.080
Residential second units	—	P	—	22.32.140 22.32.115
Room rentals	P (6)	P	—	
Single-family dwellings, attached or detached	U(8) —	PP	U(7)	22.62.060 Chapter 22.65
Tennis and other recreational uses	U (6)	U	U	22.32.130

[BOS app. 2/26/2013]

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
E	Certain uses may be exempt or Categorically Excluded from permit requirements.	Chapter 22.68
PP	Principal permitted use. (2)	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).
- ~~(2) See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses. Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.~~
- (6) Only allowed where a single family an agricultural dwelling is first approved.
- (7) Only dwellings for teachers or custodial staff, or dwellings clearly accessory to the primary use of the site for agricultural purposes allowed.
- ~~(8) Only one single family dwelling per legal lot allowed (does not include intergenerational homes or agricultural worker housing). To create additional parcels and additional single family homes, see also 22.86 (Subdivisions).~~
- (10) Only allowed when the primary use of the property is for agriculture; see Chapter 22.32.115 (Non-Agricultural Uses). The non-agricultural standards contained in Section 22.32.115 do not apply to C-ARP zoned properties with an assigned density of one unit per 1 – 5 acres.

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

TABLE 5-1-d - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL AGRICULTURAL & RESOURCE-RELATED DISTRICTS (Continued)

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
	C-APZ Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	
RESOURCE, OPEN SPACE USES				
Mineral resource extraction	U	U	—	Chapter 23.06
Nature preserves	U	P	P	
Water conservation dams and ponds	U	P	P	
Timber harvesting and tree production	U	U		23.04
Solar energy systems (coastal), roof-mounted	PP	PP	PP	22.32.161 22.42.055(2)
Solar energy systems (coastal), free-standing	P	P	P	22.32.161
RETAIL TRADE USES				
Building materials stores	—	U	—	
Commercial storage and sale of garden supply products	U	U	—	
Sales of agricultural products	P(40) —	P(10)	U	22.32.027
Bed and breakfast inns, 3 or fewer guest rooms	P(6), (40)	P(10)	—	22.32.040 22.32.115
Bed and breakfast inns, 4 or 5 guest rooms	U(6), (40)	U(10)	—	22.32.040 22.32.115
Child day-care centers	U(6)	U	—	22.32.050
Child day-care - Large family day-care homes	P(6)	P	—	22.32.050
Child day-care - Small family day-care homes	P(6)	P	—	22.32.050
Cemeteries, columbariums, mausoleums	—	U	U —	
Kennels and animal boarding	U	U	—	
Public safety/service facilities	U	U	U	
Public utility facilities	U	U	U	
Storage, accessory	P	P	P	
Veterinary clinics and animal hospitals	—	U	—	
Waste disposal sites	U	U	—	

[BOS app. 12/11/2012, 2/26/2013]

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
E	Certain uses may be exempt or Categorically Excluded from permit requirements.	Chapter 22.68
PP	Principal permitted use (2)	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions)
(2) ~~See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses.~~

Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review

requirements apply independent of, and in addition to, coastal permit requirements.

(6) Only allowed where an agricultural dwelling is first approved.

(10) Only allowed when the primary use of the property is for agriculture; see Chapter 22.32.115 (Non-Agricultural Uses). The non-agricultural standards contained in Section 22.32.115 do not apply to C-ARP zoned properties with an assigned density of one unit per 1 – 5 acres.

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal) Permit Requirements.

TABLE 5-1-e - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL AGRICULTURAL & RESOURCE-RELATED DISTRICTS (Continued)

LAND USE (1)		PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
		C-APZ Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	
TRANSPORTATION & COMMUNICATIONS USES					
Airparks		—	U	U	
Marinas and harbors		—	U	U	
Pipelines and utility lines		P(9)	P(9)	P	
	Telecommunications facilities	P/U(9)	P/U(9)	P/U(9)	22.32.165

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements (see Section 22.62.040.B)	Procedure is in Section:
E	Certain uses are exempt or Categorically Excluded from permit requirements	Chapter 22.68
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

(1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).

~~(2) See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses.~~

Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.

(9) Use Permit approval may be required for aboveground telecommunications facilities per Section 22.32.165. Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

22.62.070 – Coastal Residential Districts

A. Purpose of Section. This Section provides regulations for development ~~and new land uses, as defined in Article VIII,~~ in the coastal residential zoning districts established consistent with Marin County Local Coastal Program policies by Section 22.62.020 (Coastal Zoning Districts Established).

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

- 1. C-RA (Coastal, Residential, Agricultural) District.** The C-RA zoning district provides areas for residential use within the context of small-scale agricultural and agriculturally-related uses, subject to specific development standards. The C-RA zoning district is consistent with the Single-Family Residential 3, 4, 5, and 6 land use categories of the Marin County Land Use Plan ~~Local Coastal Program~~.
- 2. C-R1 (Coastal, Residential, Single-Family) District.** The C-R1 zoning district provides areas for detached single-family homes, similar and related compatible uses. The C-R1 zoning district is consistent with the Single-Family Residential 3, 4, 5, and 6 land use categories of the Marin County Land Use Plan ~~Local Coastal Program~~.
- 3. C-RSP (Coastal, Residential, Single-Family Planned) District.** The C-RSP zoning district provides areas for detached single-family homes, similar and related compatible uses, which are designed in compliance with Marin County Local Coastal Program policies. This Section establishes no specific setback requirements, so that development may be designed for maximum compatibility with sensitive site characteristics. The C-RSP zoning district is consistent with all Single-Family Residential land use categories of the Marin County Land Use Plan ~~Local Coastal Program~~.
- 4. C-RSPS (Coastal, Residential, Single-Family Planned) District (Seadrift Subdivision).** The C-RSPS zoning district is applied to areas within the Seadrift Subdivision intended for detached single-family homes, and similar and related compatible uses, which are designed in compliance with Marin County Local Coastal Program policies. This Section establishes no specific setback requirements, so that development may be designed for maximum compatibility with sensitive site characteristics unique to the Seadrift sandspit and lagoon, Bolinas lagoon, and the beaches adjacent to the Subdivision. The C-RSPS zoning district is consistent with all Single-Family Residential land use categories of the Marin County Land Use Plan ~~Local Coastal Program~~.
- 5. C-R2 (Coastal, Residential, Two-Family) District.** The C-R2 zoning district provides areas for attached two-family housing units, detached single-family homes consistent with Land Use Plan Policy C-CD-26, and similar and related compatible uses. The C-R2 zoning district is consistent with the Multi-Family Residential 2 land use category of the Marin County Land Use Plan ~~Local Coastal Program~~.
- 6. C-RMP (Coastal, Residential, Multiple Planned) District.** The C-RMP zoning district provides areas for varied types of residential development, and similar and related compatible uses, designed in compliance with Marin County Local Coastal Program policies. This Section establishes no specific setback requirements, so that development may be designed for maximum compatibility with sensitive site characteristics. The C-RMP zoning district is consistent with the Planned Residential and other Multi-Family Residential land use categories of the Marin County Land Use Plan ~~Local Coastal Program~~.

- C. Allowable land uses and permit requirements in residential districts.** Table 5-2 (Allowed Uses and Permit Requirements for Coastal Residential Districts) lists the land uses allowed in the residential zoning districts within the Coastal Zone, in compliance with Section 22.62.040 (Allowable Land Uses and Permit Requirements).
- D. Development standards for residential districts.** Proposed development ~~and new land uses,~~ as defined in Article VIII, shall be consistent with the land use definitions in Article VIII, and shall comply with the provisions of Chapters 22.32 as applicable (Standards for Specific Land Uses) and all other applicable provisions of this Article.

TABLE 5-2-a - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL RESIDENTIAL DISTRICTS

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT						See Standards in Section
	C-RA Residential Agri- cultural	C-R1 Single Family	C-R2 Two Family	C-RSPS Single Family Seadrift Sub- division	C-RSP Single Family Planned	C-RMP Multiple Planned	
AGRICULTURAL							
Agricultural accessory structures	PP	P	P	—	P	P	22.32.022
Agricultural processing	U	—	—	—	—	—	
Agricultural production	PP	P	P	—	P	P	
Agricultural worker housing	PP	—	—	—	—	—	22.32.028
Commercial gardening	PP	P	P	—	P	P	
Livestock operations, grazing	—	—	—	—	U(4,5)	U(4,5)	22.32.030
Livestock operations, large animals	P(5)	—	—	—	—	—	22.32.030
Livestock operations, small animals	P(5)	P(5)	P(5)	—	P(5)	P(5)	22.32.030
Mariculture/aquaculture	U	—	—	—	U	U	22.32.105
Plant nurseries, with on-site sales	U	U	U	—	U	U	
Plant nurseries, without on-site sales	P	P	P	—	P	P	
MANUFACTURING & PROCESSING USES							
Cottage industries	U	U	U	U	U	U	22.32.060

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).
- (2) ~~See Chapter 22.42 (Design Review) for Design Review requirements for all uses. Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.~~
- (4) Allowed only where a maximum density of one unit per three acres or larger is required.
- (5) Permit requirement determined by Section 22.32.030 (Animal Keeping).

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

TABLE 5-2-b - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL RESIDENTIAL DISTRICTS (Continued)

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT						See Standards n Section:
	C-RA Residential Agri- cultural	C-R1 Single Family	C-R2 Two Family	C-RSPS Single Family Seadrift Sub- division	C-RSP Single Family Planned	C-RMP Multiple Planned	
RESOURCE, OPEN SPACE USES							
Nature preserves	P	P	P	P	P	P	
Solar energy systems (coastal), roof-mounted	PP	PP	PP	PP	PP	PP	22.32.161 22.42.055 (2)
Solar energy systems (coastal), free-standing	P	P	P	P	P	P	22.32.161
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES							
Community centers	U	U	U	U	U	U	
Equestrian facilities	U	—	—	—	U	U	22.32.030
Horses, donkeys, mules, ponies	P(4)	P(4)	P(4)	—	U(4)	U(4)	22.32.030
Libraries and museums	U	U	U	U	U	U	
Private residential recreation facilities	U	U	U	U	U	U	
Public parks and playgrounds	U	U	U	U	U	P	
Public buildings	U	U	U	U	U	U	
Religious places of worship	U	U	U	U	U	U	
Schools	U	U	U	U	U	U	

[BOS app. 2/26/2013]

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

(1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).

(2) ~~See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses.~~
Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.

(4) Permit requirement determined by Section 22.32.030 (Animal Keeping).

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

**TABLE 5-2-c - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL
RESIDENTIAL DISTRICTS (Continued)**

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT						See Standards in Section:
	C-RA Residential Agri- cultural	C-R1 Single Family	C-R2 Two Family	C-RSPS Single Family Seadrift Sub- division	C-RSP Single Family Planned	C-RMP Multiple Planned	
RESIDENTIAL USES							
Affordable housing	PP	PP	PP	PP	PP	PP	22.32.080
Group homes, 6 or fewer residents	P	P	P	P	P	P	22.32.080
Group homes, 7 or more residents	U	U	U	U	U	U	22.32.080
Guest houses	P	P	P	P	P	P	22.32.090
Home occupations	P	P	P	P	P	P	22.32.100
Multi-family dwellings	—	—	—	—	—	PP	
Organizational houses	U	U	U	---	U	U	
Room rentals	PP	PP	PP	PP	PP	PP	
Residential accessory uses and structures	PP	PP	PP	PP	PP	PP	22.32.130
Residential care facility, 6 or fewer individuals	P	P	P	P	P	P	
Residential care facility, 7 or more individuals	U	U	U	U	U	U	
Residential second units	PP	PP	PP	PP	PP	PP	22.32.140
Single-family dwellings	PP	PP	PP	PP	PP	PP	
Two-family dwellings	—	—	PP	—	—	PP	

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

(1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).

~~(2) See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses.~~

Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

**TABLE 5-2-d - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL
RESIDENTIAL DISTRICTS (Continued)**

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT						See Standards in Section:
	C-RA Residential Agri- cultural	C-R1 Single Family	C-R2 Two Family	C-RSPS Single Family Seadrift Sub- division	C-RSP Single Family Planned	C-RMP Multiple Planned	
RETAIL TRADE USES							
Sale of agricultural products produced on site	U	U	U	—	U	U	22.32.027
SERVICE USES							
Bed and breakfast, 3 or fewer guest rooms	P	P	P	P	P	P	22.32.040
Bed and breakfast, 4 or 5 guest rooms	U	U	U	U	U	U	22.32.040
Child day-care centers	U	U	U	U	U	U	22.32.050
Child day-care, large family day-care homes	P	P	P	P	P	P	22.32.050
Child day-care, small family day-care homes	P	P	P	P	P	P	22.32.050
Kennels and animal boarding	U	—	—	—	—	—	
Public utility or safety facilities	U	U	U	U	U	U	
TRANSPORTATION & COMMUNICATIONS USES							
Pipelines and utility lines	U	U	U	U	U	U	
Telecommunications facilities	P/U	P/U	P/U	P/U	P/U	P/U	22.32.165

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

(1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).

~~(2) See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses.~~
Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

22.62.080 – Coastal Commercial and Mixed-Use Districts

- A. Purpose of Section.** This Section provides regulations for development, as defined in Article VII, in the coastal commercial and mixed-use zoning districts established ~~consistent with Marin County Local Coastal Program policies~~ by Section 22.62.030 (Coastal Zoning Districts Established).
- B. Purposes of zoning districts.** The purposes of the individual coastal commercial and mixed-use zoning districts are as follows:
- 1. C-VCR (Coastal, Village Commercial/Residential) District.** The C-VCR zoning district is intended to: maintain the established historical character of village commercial areas; promote village commercial self-sufficiency; foster opportunities for village commercial growth, including land uses that serve coastal visitors; maintain a balance between resident-serving and non-resident-serving commercial uses; protect established residential, commercial, and light industrial uses; and maintain community scale. The C-VCR zoning district is consistent with the Neighborhood Commercial land use category of the Marin County ~~Local Coastal Program~~ Land Use Plan.
 - 2. C-H1 (Coastal, Limited Roadside Business) District.** The C-H1 zoning district is intended for rural areas suitable for businesses that serve the motoring public. The C-H1 zoning district is consistent with the General Commercial/Mixed-Use land use category of the Marin County Land Use Plan ~~Local Coastal Program~~.
 - 3. C-CP (Coastal, Planned Commercial) District.** The C-CP zoning district is intended to create and protect areas suitable for a full range of commercial and institutional uses in compliance with the Marin County Local Coastal Program. The C-CP zoning district is consistent with the General Commercial/Mixed-Use land use category of the Marin County Land Use Plan ~~Local Coastal Program~~.
 - 4. C-RMPC (Coastal, Residential/Commercial Multiple Planned) District.** The C-RMPC zoning district is intended to create and protect areas suitable for a mixture of residential and commercial uses in compliance with the Marin County Local Coastal Program. The C-RMPC zoning district is consistent with the General Commercial/Mixed-Use land use category of the Marin County Land Use Plan ~~Local Coastal Program~~.
 - 5. C-RCR (Coastal, Resort and Commercial Recreation) District.** The C-RCR zoning district is intended to create and protect areas for resort facilities, with emphasis on public access to recreational areas within and adjacent to developed areas. The C-RCR zoning district is consistent with the Recreational Commercial land use category of the Marin County Land Use Plan ~~Local Coastal Program~~.
- C. Allowed land uses and permit requirements in commercial/mixed use districts.** Table 5-3 (Allowed Use and Permit Requirements for Coastal Commercial/Mixed-Use Districts) lists the land uses allowed in the commercial zoning districts within the Coastal Zone, in compliance with Section 22.62.040 (Allowable Land Uses and Permit Requirements).
- D. Development standards for Commercial/Mixed-use districts.** Proposed development, as defined and new land uses consistent with the definitions in Article VIII, shall comply with the LCP, including the provisions of Chapters 22.32 as applicable (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65

(Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

**TABLE 5-3-a - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL
COMMERCIAL/MIXED-USE DISTRICTS**

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT					See Standards in Section
	C-VCR Village Commercial Residential	C-H1 Limited Roadside Business	C-CP Planned Commercial	C-RMPC Residential Commercial Multiple Planned	C-RCR Resort and Commercial Recreation	
AGRICULTURAL, RESOURCE & OPEN SPACE						
Agricultural production	P	P	P	P	—	
Commercial gardening	P	P	P	P	—	
Mariculture/aquaculture	P	P	P	P	—	22.32.105
Plant nurseries, with or without on-site sales	P	P	P	P	—	
Solar energy systems (coastal), roof-mounted	PP	PP	PP	PP	PP	22.32.161 22.42.055(2)
Solar energy systems (coastal), free-standing	P	P	P	P	P	22.32.161
MANUFACTURING & PROCESSING USES						
Beverage production	U	—	U	U	—	
Boat manufacturing and sales	U	—	U	U	—	
Cottage Industries	U	—	—	U	—	22.32.060
Food products	U	U	U	U	—	
Furniture and fixtures	U	—	U	U	—	
Laundries and dry cleaning plants	U	—	U	U	—	
Recycling facilities	U	U	U	U	P	
Recycling – Reverse vending machines	P	P	P	P	P	
Seafood processing and sales	U	—	U	U	—	

[BOS app. 2/26/2013]

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).
~~(2) See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses. Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.~~

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

TABLE 5-3-b – ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL COMMERCIAL/MIXED USE DISTRICTS (Continued)

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT					See Standards in Section
	C-VCR Village Commercial Residential	C-H1 Limited Roadside Business	C-CP Planned Commercial	C-RMPC Residential Commercial Multiple Planned	C-RCR Resort and Commercial Recreation	
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES						
Community centers	U	P	U	U	U	
Golf courses/country clubs	—	—	—	—	U	
Health/fitness facilities	U	—	U	U	U	
Indoor recreation centers	U	—	U	U	U	
Libraries and museums	U	P	U	U	U	
Membership organization facilities	U	U	U	U	—	
Outdoor commercial recreation	—	U	—	—	U	
Public parks and playgrounds	U	U	U	U	U	
Religious places of worship	U	U	U	U	<u>U</u>	
Schools	U	U	U	U	<u>U</u>	
Sport facilities and outdoor public assembly	U	U	U	U	U	
Studios for dance, art, music, photography, etc.	U	U	U	U	U	
Theaters and meeting halls	U	U	U	U	U	

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

(1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).

~~(2) See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses. Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.~~

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

TABLE 5-3-c - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL COMMERCIAL/MIXED USE DISTRICTS (Continued)

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT					See Standards in Section
	C-VCR Village Commercial Residential (4)	C-H1 Limited Roadside Business	C-CP Planned Commercial	C-RMPC Residential Commercial Multiple Planned	C-RCR Resort and Commercial Recreation	
RESIDENTIAL USES						
Affordable housing	PP	PPU	PPU	PP	PP_(9)	Chapter 22.22
Group homes, 6 or fewer residents	P	U	—	P	—	22.32.080
Group homes, 7 or more residents	U	U	—	U	—	22.32.080
Guest houses	PP	U	—	PP	—	22.32.090
Home occupations	PP	U	—	PP	—	22.32.100
Multi-family dwellings	U	U	U(8)	PP	—(9)	22.32.150
Organizational houses	U	U	—	U	—	
Residential accessory uses and structures	PP	U	—	PP	—	22.32.130
Residential Second Units	—	—	—	—	—	22.32.140
Room rentals	PP	U	—	PP	—	
Single-family dwellings	PP	U	U(8)	PP	—(9)	22.32.150
Tennis and other recreational uses	U	U	U(8)	PP	—	22.32.130
Two-family dwellings	U	U	U(8)	PP	—(9)	22.32.150

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).
- ~~(2) See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses. Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.~~
- ~~(4) Residential uses proposed on the ground floor of a new or existing structure on the road-facing side of the property per Parcels zoned C-VCR must also meet the requirements of Land Use Plan Policy C-PK-3.~~
- ~~(8) All dwellings in these zoning districts Dwellings, except for affordable housing, shall be accessory to the primary commercial use. See 22.32.150 (Residential Uses in Commercial/Mixed Use Areas).~~
- ~~(9) Employee housing is permitted by with Design Review requirements independent of and in addition to Coastal Permit requirements. See Chapter 22.42 (Design Review). Such housing would be a Conditional Use.~~

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

TABLE 5-3-d - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL COMMERCIAL/MIXED USE DISTRICTS (Continued)

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT					See Standards in Section
	C-VCR Village Commercial Residential	C-H1 Limited Roadside Business	C-CP Planned Commercial	C-RMPC Residential Commercial Multiple Planned	C-RCR Resort and Commercial Recreation	
RETAIL TRADE USES						
Accessory retail uses	PP	U	PP	PP	—	22.32.020
Auto, mobile home, vehicle and parts sales, new	U	—	U—	U	—	
Auto sales, used	U	—	U—	U	—	
Bars and drinking places	U	—	U	U	U	
Building material stores	U	U	U	U	—	
Farmers' markets	U	—U	U	U	—	
Fuel and ice dealers	U	U	U	U	—	
Furniture, furnishings, and equipment stores	PP	U	PP	PP	—	
Grocery stores	PP	U	PP	PP	—	
Liquor stores	PP	U	PP	PP	—	
Outdoor retail sales and activities	U	U	U	U	—	
Outdoor retail sales, temporary	U	U	U	U	—	
Restaurants, 40 patrons or less	PP	PP	PP	PP	U	
Restaurants, more than 40 patrons	U	U	U	U	U	
Restaurants, with liquor and/or entertainment	U	U	U	U	U	
Restaurants, take-out, fast food	U	U	U	U	U	
Retail stores, general merchandise	PP	U	PP	PP	—	
Retail stores, visitor/collector	U	U	U	U	—	
Second hand stores	U	U	U	U	—	
Shopping centers	U	U	U	U	—	
Tobacco retail establishments	—	U	U	—	—	22.32.170

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

(1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).

(2) ~~See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses.~~

Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

TABLE 5-3-e - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL COMMERCIAL/MIXED USE DISTRICTS (Continued)

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT					See Standards in Section
	C-VCR Village Commercial Residential	C-H1 Limited Roadside Business	C-CP Planned Commercial	C-RMPC Residential Commercial Multiple Planned	C-RCR Resort and Commercial Recreation	
SERVICE USES						
Automatic teller machine (ATM), not at bank	PP	P	PP	PP	P	
Banks and financial services (no drive-thru)	PP	—	PP	PP	—	
Bed and breakfast, 3 or fewer guest rooms	PP	U	—	PP	—	22.32.040
Bed and breakfast, 4 or 5 guest rooms	U	U	—	U	—	22.32.040
Business support services	P	—	P	P	—	
Cemeteries, columbariums and mortuaries	U	U	U	U	U	
Child day-care centers	U	U	U	U	—	22.32.050
Child day-care, large family day- care homes	P	P	P	P	—	22.32.050
Child day-care, small family day- care homes	P	P	P	P	—	22.32.050
Construction yards	U	—	U	U	—	
Homeless shelters	—	—	P	—	—	22.32.095
Hotels and motels	U	U	U	U	PP	
Medical services - Clinics and laboratories	U	U	U	U	—	
Medical services - Hospitals and extended care	U	U	U	U	U	
Offices	PP	U	PP	PP	—	
Personal services	PP	—	PP	PP	—	
Public utility or safety facilities	U	U	U	U	U	
Repair and maintenance – consumer products	P	—	P	P	—	
Repair and maintenance – vehicles	U	U	U	U	—	
Service stations	U	U	U	U	U	22.32.160
Storage, accessory	P	P	P	P	U	
Veterinary clinics and animal hospitals	U	U	U	U	—	
Warehousing	U	—	U	U	—	

[BOS app., 12/11/2012]

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).
(2) ~~See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses.~~

Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

TABLE 5-3-f - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL COMMERCIAL/MIXED USE DISTRICTS (Continued)

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT					See Standards in Section
	C-VCR Village Commercial Residential	C-H1 Limited Roadside Business	C-CP Planned Commercial	C-RMPC Residential Commercial Multiple Planned	C-RCR Resort and Commercial Recreation	
TRANSPORTATION & COMMUNICATIONS USES						
Commercial parking and vehicle storage	U	—	U	U	—	
Harbors	U	—	U	U	U	
Marinas	U	—	U	U	U	
Pipelines and utility lines	U	U	U	U	U	
Telecommunications facilities	P/U	P/U	P/U	P/U	P/U	22.32.165
Transit stations and terminals	U	—	U	U	U	
Transit stop shelters	PP	PP	PP	PP	PP	
Vehicle and freight terminals	—	—	P	U	—	

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).
- ~~(2) See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses. Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.~~

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

22.62.090 – Coastal Special Purpose and Combining Districts

A. Purpose of Section. This Section provides regulations for development ~~and new land uses, as defined in Article VIII,~~ in the coastal special purpose and combining zoning districts established ~~consistent with Marin County Local Coastal Program policies by Section 22.62.030~~ (Coastal Zoning Districts Established).

B. Purpose and applicability of zoning districts.

1. General Applicability.

a. Special purpose districts. Special purpose zoning districts are intended to identify sites suitable for types of land uses that are ~~substantially different from, or that may not be appropriate or cannot be readily~~ but that can be accommodated along with, ~~most~~ certain land uses allowed within the other coastal agricultural, residential, and commercial zoning districts established by Section 22.62.030.

b. Combining districts. Combining districts are applied to property together with one of the other agricultural, residential, or commercial zoning districts, to highlight areas where important site, neighborhood, or area characteristics require particular attention in project planning.

(1) The combining districts established by this Chapter provide standards that apply to development ~~and new land uses, as defined in Article VIII,~~ in addition to those of zoning districts.

(2) The applicability of a combining district to property is shown by its map symbol established by Section 22.62.030 (Coastal Zoning Districts Established) being shown as a suffix to the symbol for the primary zoning district. A site designated within a combining district shall be subject to all applicable provisions of this Chapter, in addition to the requirements of the primary zoning district. If provisions of this Chapter conflict with any requirements of a primary zoning district, this Chapter shall control.

2. C-PF (Coastal, Public Facilities) Zoning/Combining District.

a. The Coastal Public Facilities “C-PF” zoning/combining district is applied to land in the Coastal Zone suitable for public facilities and public institutional uses, including where a governmental, educational, or other institutional facility is the primary use of the site, in compliance with the Marin County Local Coastal Program. The C-PF district is consistent with the Public Facility and Quasi-Public Facility land use categories of the ~~Marin County Local Coastal Program~~ Land Use Plan.

b. The C-PF district may be applied to property as a primary zoning district ~~where the permitting authority determines that the facility~~ if it is sufficiently different from surrounding land uses as to warrant a separate C-PF zoning district, and as a combining district where a publicly-owned site accommodates land uses that are similar in scale, character, and activities, to surrounding land uses.

3. B (Coastal, Minimum Lot Size) Combining District. See Section 22.64.040 (Coastal Minimum Lot Size (-B) Combining District) for the purpose and applicability of this district.

- C. Development standards for special purpose/combining districts.** Proposed development ~~and new land uses, as defined in Article VIII, shall be consistent with the land use definitions in Article VIII, and shall~~ comply with the provisions of Chapter 22.32 (Standards for Specific Land Uses) as applicable and all other applicable provisions of this Article.

Chapter 22.64 – Coastal Zone Development and Resource Management Standards

Sections:

22.64.010 – Purpose of Chapter
22.64.020 – Applicability
22.64.030 – General Site Development Standards
22.64.040 – Coastal Minimum Lot Size (-B) Combining District
22.64.050 – Biological Resources
22.64.060 – Environmental Hazards
22.64.080 – Water Resources
22.64.100 – Community Design
22.64.110 – Community Development
22.64.120 – Energy
22.64.130 – Housing
22.64.140 – Public Facilities and Services
22.64.150 – Transportation
22.64.160 – Historical and Archaeological Resources
22.64.170 – Parks and Recreation
22.64.180 – Public Coastal Access

22.64.010 – Purpose of Chapter

This eChapter provides ~~general~~ standards for proposed development, including site planning, and appropriate land use, for the following coastal zoning districts: C-APZ (Coastal, Agricultural Production Zone), C-ARP (Coastal, Agricultural, Residential Planned), C-OA (Coastal, Open Area), C-RA (Coastal, Residential, Agricultural), C-R1 (Coastal, Residential, Single-Family), C-RSP (Coastal, Residential, Single-Family Planned), C-RSPS (Coastal, Residential, Single-Family Planned, Seadrift Subdivision), C-R2 (Coastal, Residential, Two-Family), C-RMP (Coastal, Residential, Multiple Planned), C-VCR (Coastal, Village Commercial/ Residential), C-H1 (Coastal, Limited Roadside Business), C-CP (Coastal, Planned Commercial), ~~and~~ C-RMPC (Coastal, Residential/Commercial Multiple Planned) zoning districts, and the -B (Minimum Lot Size) combining district.

22.64.020 – Applicability

The provisions of this Chapter apply to proposed development, as defined in Article VIII, in all coastal zoning districts ~~to proposed development and new land uses~~ which require Coastal Permit approval in addition to the requirements of Chapters 22.62 (Coastal Zoning Districts and Allowable Land Uses), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and all other applicable provisions of this Development Code. In addition to specific standards applicable to a particular land use, all other LCP standards requirements also apply.

22.64.030 –General Site Development Standards

Proposed development within the coastal zoning districts established by Section 22.62.030 (Coastal Zoning Districts Established) shall be sited, designed, ~~and constructed, and used~~ in compliance with the minimum lot area, density, setback requirements, height, and floor area ratio requirements

shown in Table 5-4 (Coastal Zone Development Standards), as well as all other applicable LCP requirements.

TABLE 5-4-a – COASTAL ZONE DEVELOPMENT STANDARDS

Zoning District	Minimum Lot Area (1)	Maximum Residential Density (2,6)	Minimum Setback Requirements (1, 3)			Maximum Height Limit (4)		Maximum FAR (5,7)
			Front	Sides	Rear	Primary	Accessory	
C-RA	7,500 sq. ft.	Not applicable	25 ft.	6 ft., 10 ft. on street side	20% of lot depth to 25 ft. max.	25 ft.	15 ft.	0.30
C-R1								
C-R2								
C-VCR		1 unit per 2,000 sq. ft. of lot area	0 ft.	0 ft. for commercial use, 5 ft. for residential use	0 ft. for commercial use, 15 ft. for residential use			Not applicable <u>See Note 7</u>
C-H1		1 unit per 7,500 sq. ft. of lot area	30 ft.	6 ft. adjacent to residential district, none otherwise	12 ft. adjacent to residential district, none otherwise			

Notes:

- (1) Minimum lot area and setback standards may change, as follows:
 - a. Minimum lot area and setback standards may change when such district is combined with a “-B” district in compliance with the provisions of Section 22.64.040 (Coastal “-B” Combining District Development Standards).
 - b. Minimum lot area may change in areas of sloping terrain, including those districts combined with “-B” districts, in compliance with the provisions of Section 22.82.050 (Hillside Subdivision Design).
- (2) In C-RA, C-R1, C-R2, and C-H1 districts, maximum residential density is based on one unit per the minimum lot area required.
- (3) See (1) above. See Section ~~22.64.045(4)~~ 22.20.090 (Setback Requirements and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions to required setbacks. Setback exceptions for ESHA and hazards are only allowed per the LCP’s Biological Resources and Environmental Hazards policies, respectively. ~~(4) See Section 22.20.060 (Height Measurement and Height Limit Exceptions) for height measurement and exceptions. Building height limits may change, as follows:~~
 - a. ~~In C-R1 districts of the Stinson Beach Highlands, the primary building height limit is 17 feet.~~
 - b. ~~Single family dwellings over 25 feet in height may require Design Review and Variance approval in compliance with Chapters 22.42 (Design Review) and 22.54 (Variances), in addition to a Coastal Permit.~~
- (4) ~~See Section 22.20.060 (Section 22.64.045(3) (Height Limits Exceptions) for height measurement and exceptions. Building height limits may change, as follows:~~
 - a. In C-R1 districts of the Stinson Beach Highlands, the primary building height limit is 17 feet.
 - b. Single-family dwellings over 25 feet in height ~~may~~ shall require Design Review (in addition to and independent of Coastal Permit requirements) and Variance approval in compliance with Chapters 22.42 (Design Review) and 22.70.150 (Coastal Zone Variances), in addition to a Coastal Permit.
 - c. All height limit exceptions must be found consistent with Land Use Plan Policies C-DES-1, 2, and 3.
[BOS app. 12/11/2012]
- (5) See Chapter 22.42 (Design Review) for other conditions that may require Design Review approval in addition to and independent of a Coastal Permit. In C-VCR and C-H1 districts,

maximum floor area may be determined through the Design Review Process in compliance with Chapter 22.42 (Design Review) in addition to and independent of a Coastal Permit.

- (6) The maximum residential density for proposed ~~sub~~ land divisions ~~for that portion or portions of~~ properties with Environmentally Sensitive Habitat Areas and buffers, hazardous areas and setbacks, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the density range as established by the governing Land Use Category, except for projects that provide significant public benefits, as determined by the Review Authority, or lots proposed for affordable housing, ~~or where~~ if it can be demonstrated that all resulting the development can will avoid and protect all ESHA and ESHA buffers, avoid all hazardous areas and hazard setbacks, and be served by on-site water and sewage disposal systems.
- (7) The maximum non-residential and non-agricultural floor area for that portion or portions of properties with Environmentally Sensitive Habitat Areas and buffers, hazardous areas and setbacks, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the ~~density~~ FAR range as established by the governing Land Use Category, except for projects that provide significant public benefits, as determined by the Review Authority, ~~or~~ where it can be demonstrated that the development ~~can~~ will avoid and protect all ESHA and ESHA buffers, can avoid all hazardous areas and hazard setbacks, and can be served by on-site water and sewage disposal systems.

See Article VIII (Development Code Definitions) for definitions of the terms used above.

TABLE 5-4-b – COASTAL ZONE DEVELOPMENT STANDARDS (Continued)

Zoning District	Minimum Lot Area (1)	Maximum Residential Density (2, 6)	Minimum Setback Requirements (3)			Maximum Height Limit (4)		Maximum FAR (5,7)
			Front	Sides	Rear	Primary	Accessory	
C-OA	Not applicable See Note 1	Not applicable See Notes 2 and 6	Not applicable See Note 3			25 ft.	15 ft.	Not applicable See Notes 5 and 7
C-APZ		See Zoning Map						
C-ARP								
C-RMP								
C-RMPC								
C-RSP								
C-RSPS		See 22.66.070.D						
C-CP		Not permitted				25 ft.	15 ft.	
C-RCR								

Notes:

- (1) Minimum lot area is determined through the Coastal Permit. The review authority will determine whether the lot area is adequate for a proposed land use.
- (2) Where dwellings are permitted, the following standards apply:
 - a. In C-OA districts, maximum residential density is determined through the Coastal Permit.
 - b. In C-APZ, C-ARP, C-RMP, C-RMPC, C-RSP, and C-RSPS districts, when determining the maximum residential density allowed, any fraction of a dwelling unit of 0.90 or greater will be counted as a whole unit.
 - c. C-APZ districts shall have a maximum residential density of one unit per 60 acres.
 - d. In considering division of agricultural lands in the Coastal Zone, the County may approve fewer parcels than the maximum number of parcels allowed by this Code, based on site characteristics such as topography, soil, water availability, environmental constraints, and the capacity to sustain viable agricultural operations. {See also LUP Policy C-AG-6}
- (3) Setbacks are determined through the Coastal Permit. Setbacks for ESHA and hazards are specified in the LCP's Biological Resources and Environmental Hazards policies, respectively.
- (4) See ~~Section 22.20.060~~ (Section 22.64.045(3) (Height Limits and Exceptions)) for height measurement and exceptions. Building height limits may change, as follows:
 - a. In C-RSP districts on the shoreline of Tomales Bay, building height limits shall comply with Section 22.65.060.C (C-RSP Zoning District Height Limit - Tomales Bay).
 - b. In C-RSPS districts, building height limits shall comply with Section 22.65.070.D (C-RSPS Zoning District Height Limit - Seadrift Subdivision).
 - c. All height limit exceptions must be found consistent with Land Use Plan Policies C-DES-1, 2, and 3.
- (5) Maximum floor area is determined through the Coastal Permit.
- (6) The maximum residential density for proposed subland divisions ~~for that portion or portions~~ of properties with Environmentally Sensitive Habitat Areas and buffers, hazardous areas and setbacks, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the density range as established by the governing Land Use Category, except for projects that provide significant public benefits, as determined by the Review Authority, or lots proposed for affordable housing, ~~or where if it can be demonstrated that the all resulting development can~~ will avoid and protect all ESHA and ESHA buffers, avoid all hazardous areas and hazard setbacks, and be served by on-site water and sewage disposal systems.

- (7) The maximum non-residential and non-agricultural floor area for that portion or portions of properties with Environmentally Sensitive Habitat Areas and buffers, hazardous areas and setbacks, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the ~~density~~ FAR range as established by the governing Land Use Category, except for projects that provide significant public benefits, as determined by the Review Authority, ~~or and~~ where it can be demonstrated that the development ~~can~~ will avoid and protect all ESHA and ESHA buffers, avoid all hazardous areas and hazard setbacks, and be served by on-site water and sewage disposal systems.

See Article VIII (Development Code Definitions) for definitions of the terms used above.

22.64.040 – Coastal Minimum Lot Size (-B) Combining District

- A. Purpose.** The Coastal Minimum Lot Size “-B” combining district is intended to establish lot size, area, and setback requirements for ~~new subland~~ divisions that are different from those normally applied by the primary zoning district applicable to a site; and to configure ~~new~~ development on existing lots, where desirable, because of specific characteristics of the area.
- B. Development standards.** Where the -B combining district is applied, the minimum lot area, average lot width, and depths of front, side, and rear yards in Table 5-5 shall be required, instead of those that are normally required by the primary zoning district. The maximum residential density for proposed ~~subland~~ division for that portion or portions of properties with Environmentally Sensitive Habitat Areas and buffers, hazardous areas and setbacks, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the density range as established by the governing Land Use Category, except for projects that provide significant public benefits, as determined by the Review Authority, or lots proposed for affordable housing, ~~or and~~ where it can be demonstrated that the development can avoid and protect all ESHA and ESHA buffers, can avoid all hazardous areas and hazard setbacks, and can be served by on-site water and sewage disposal systems.

TABLE 5-5 – COASTAL -B COMBINING DISTRICT DEVELOPMENT STANDARDS

Zoning District	Minimum Lot Area (1)	Minimum Setback Requirements (2)			<u>Maximum Height Limit</u> (3)		Maximum FAR (4, 5)
		Front	Sides	Rear	Primary	Accessory	
B1	6,000 sq.ft.	25 ft.	5 ft., 10 ft. on street side	20% of lot depth to 25 ft. max.	25ft.	15 ft.	0.30
B2	10,000 sq.ft.		10 ft.				
B3	20,000 sq.ft.	30 ft.	15 ft.				
B4	1 acre		20 ft.				
B5	2 acres		20 ft., 30 ft. on street side	30 ft.			
B6	3 acres						
BD	See Section 22.66.110						

Notes:

- (1) Minimum lot area shown applies except where Section 22.82.050 (Hillside Subdivision Design) establishes a ~~different~~ lower minimum lot area standard.
- (2) See ~~Section 22.20.090~~ (Setback Requirements and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions to required setbacks. Setback exceptions for ESHA and hazards are only allowed per the LCP's Biological Resources and Environmental Hazards policies, respectively.
- (3) See ~~Section 22.20.060~~ (Section 22.64.045(3) (Height Limits and Exceptions) for height measurement and exceptions. Primary building height limit in the Stinson Beach Highlands is 17 feet, not 25 feet. Single-family dwellings over 25 feet in height ~~may shall~~ require Design Review (in addition to and independent of Coastal Permit requirements) and Variance approval in compliance with Chapters 22.42 (Design Review) and 22.70.150 (Coastal Zone Variances), in addition to a Coastal Permit. All height limit exceptions must be found consistent with Land Use Plan Policies C-DES-1, 2, and 3.
{BOS app., 12/11/2012}
- (4) ~~See Chapter (Design Review) for other conditions that may require Design Review approval in addition to a Coastal Permit.~~ Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.
- (5) The maximum non-residential and non-agricultural floor area for that portion or portions of properties with Environmentally Sensitive Habitat Areas and buffers, hazardous areas and setbacks, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the density range as established by the governing Land Use Category, except for projects that provide significant public benefits, as determined by the Review Authority, ~~or and~~ where it can be demonstrated that the development can avoid and protect all ESHA and ESHA buffers, avoid all hazardous areas and hazard setbacks, and be served by on-site water and sewage disposal systems.

See Article VIII (Development Code Definitions) for definitions of the terms used above.

22.64.045--Property Development and Use Standards

1. Applicability—General Standards.

- A. All proposed development, including new land uses, shall conform with all of the standards of this Chapter and all applicable LCP provisions unless exempted from coastal permit requirements by Chapter 22.68.

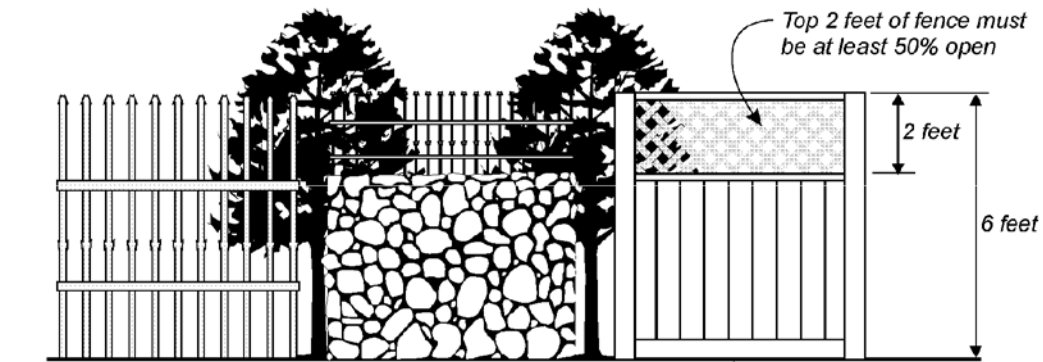
2. Fencing and Similar Structure Standards

In addition to other applicable LCP provisions, the following standards shall apply to the installation of all fences, walls, trellises, planted hedges and vegetated screens, and similar structures:

- A. **Height limitations.** Fences, walls, trellises, and similar structures are subject to the following height limitations.
 1. **General height limit.** A fence or wall having a maximum height of four feet or less above grade may be located within a required setback for a front yard or side yard that abuts a street. A fence or wall having a maximum height exceeding four feet but no more than six feet above grade may be located within a required setback for a front yard or side yard that abuts a street if the entire section or portion of the fence or wall above four feet in height above grade has a surface area that is at least 50%

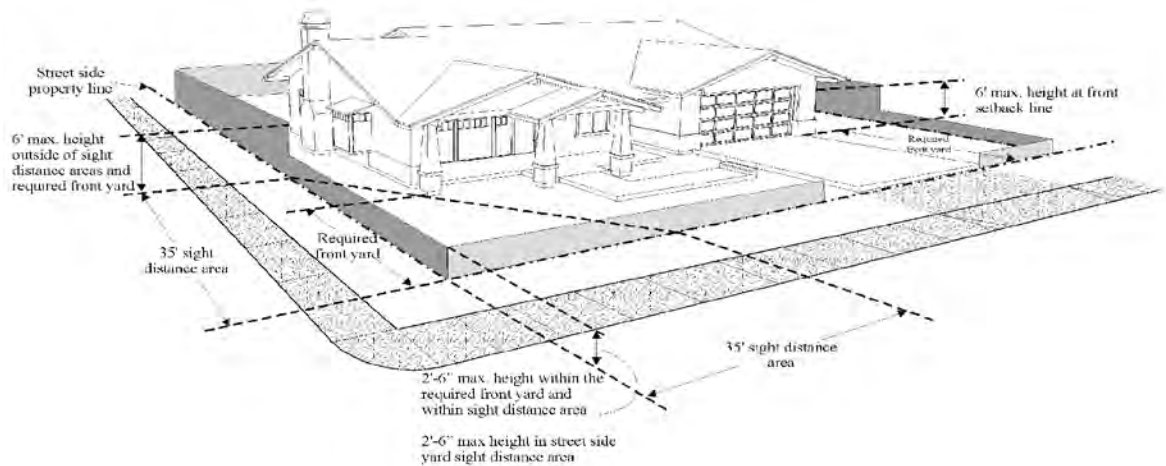
open and unobstructed by structural elements. (See Figure 3-1.) A solid fence or wall having a maximum height of six feet above grade may be located within a required interior yard setback, a rear yard setback, a rear yard setback of a through lot, or on the property line defining such yards. A trellis above a gate or opening along the line of a fence, not exceeding a maximum height of eight feet above grade and a width of six feet, is permitted within a required setback for a front, side, or rear yard that abuts a street. In all cases, such fences, walls, trellises, or other similar structures shall only be allowed so long as such structures protect significant public views, including views both to and along the ocean and scenic coastal areas as seen from public viewing areas.

FIGURE 3-1
EXAMPLES OF FENCE, WALL, TRELLIS, AND SIMILAR STRUCTURES WITH
THE AREA
ABOVE FOUR FEET AT LEAST 50% OPEN



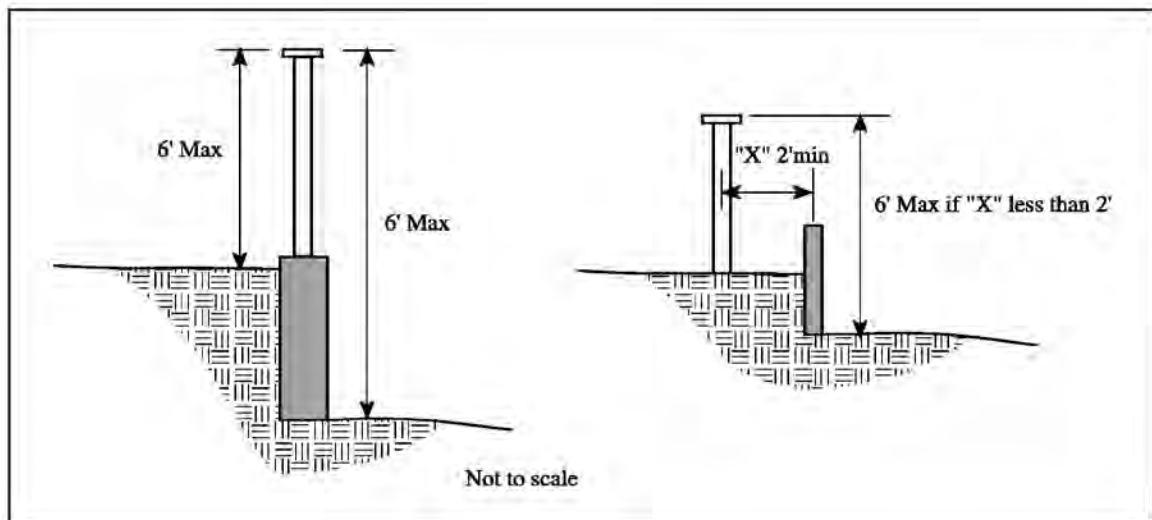
2. **Corner lots.** In addition to the general provisions described above, fences within the front and/or street side setbacks of a corner lot shall not exceed a height of two feet, six inches above the street level of an adjacent intersection, within the area between the property lines and a diagonal line joining points on the property lines which are 35 feet from their intersection. See Figure 3-2.

FIGURE 3-2
HEIGHT LIMITATIONS FOR FENCES, WALL, TRELLIS, AND SIMILAR
STRUCTURES ON CORNER LOTS



3. **Lots with grade differential.** In addition to the general provisions described above, where there is a difference in the ground level between two adjoining lots, the height of the fence, wall, trellis, or other similar structure shall not exceed six feet as measured from grade on either side of the structure. See Figure 3-3 (Fence Height Limits).
 4. **Parallel fences and walls.** In addition to the general provisions described above, two approximately parallel fences, walls, trellises, or other similar structures shall maintain a separation of at least two feet to encourage landscaping between the separation, or the height of both structures shall be computed as one structure, subject to the six foot height limitation. See Figure 3-3 (Fence Height Limits).
- B. **Setback requirements.** Fences, walls, trellises, or other similar structures up to four feet in height or six feet in height above grade may be located within a required setback or on property lines in compliance with the height limits of Subsection A., above. Fences, walls, trellises, or other similar detached structures exceeding the height limits specified in Subsection A, shall be subject to the same setback requirements of this Implementation Plan applicable to the primary structure. Fences, walls, trellises, or other similar structures shall be sited and designed to protect significant public views.
- C. **Planted Hedges and Vegetated Screens.** Planted hedges and vegetated screens shall be subject to the same height limitations and setback requirements specified above, and shall only be allowed so long as such hedges and screens protect significant public views, including views both to and along the ocean and scenic coastal areas as seen from public viewing areas.

FIGURE 3-3
FENCING AND SIMILAR STRUCTURES HEIGHT LIMITS

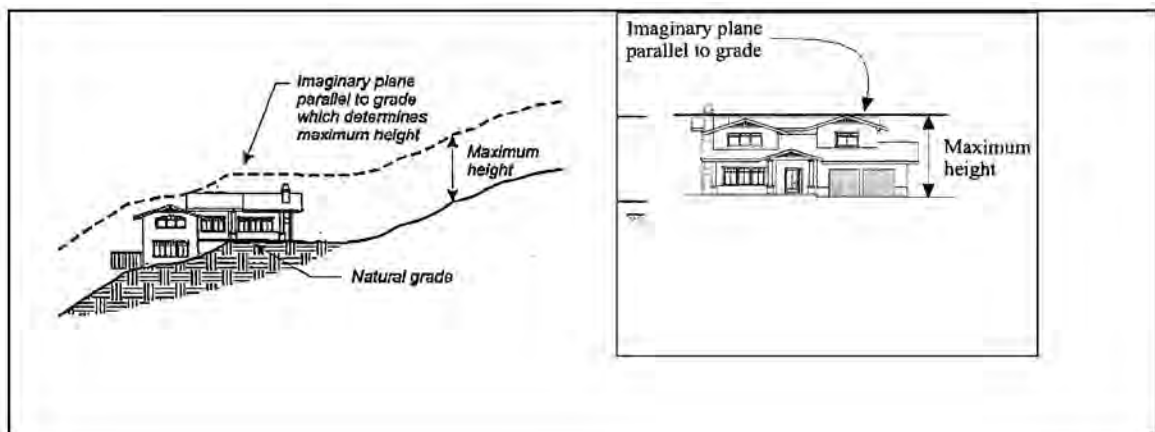


3. Height Limits and Exceptions.

In addition to other applicable LCP provisions, all structures shall meet the following standards relating to height, except for fences, walls, trellises, planted hedges and vegetated screens, and similar structures, which shall comply with Fencing and Similar Structure Standards, above. All maximum heights are maximums and not entitlements to that height, and may be adjusted downwards in order to meet LCP provisions, including those related to protecting public views.

- A. **Maximum height.** The height of any structure shall not exceed the maximum height standard established by the applicable zoning district in the LCP. Maximum height shall be measured as the vertical distance from grade to an imaginary plane located the maximum number of feet above and parallel to the grade. See Figure 3-4 (Measurement of Maximum Height) and definition of "Grade" in Article VIII (Definitions).

FIGURE 3-4
MEASUREMENT OF MAXIMUM HEIGHT



B. Detached accessory structures. A detached accessory structure shall not exceed 15 feet in height above grade. However, a detached accessory structure may be constructed to the height allowed for primary structures by the applicable zoning district if the accessory structure is located at least 40 feet from all property lines.

C. Structures for parking. A detached parking structure is subject to the same maximum height limit as detached accessory structures, above.

D. Height Exceptions:

1. Spires, towers, water tanks, etc. Chimneys, cupolas, flag poles, gables, monuments, spires, towers (e.g., transmission, utility, etc.), water tanks, necessary mechanical appurtenances, and similar structures may be allowed to exceed the height limit established for the applicable zoning district, subject to all of the following standards:

a. The structure shall not cover more than 15 percent of the lot area at any level.

b. The area of the base of the structure shall not exceed 1,600 square feet.

c. No gable, spire, tower or similar structure shall be used for sleeping or eating quarters or for any commercial purpose other than that which is incidental to the allowed uses of the primary structure.

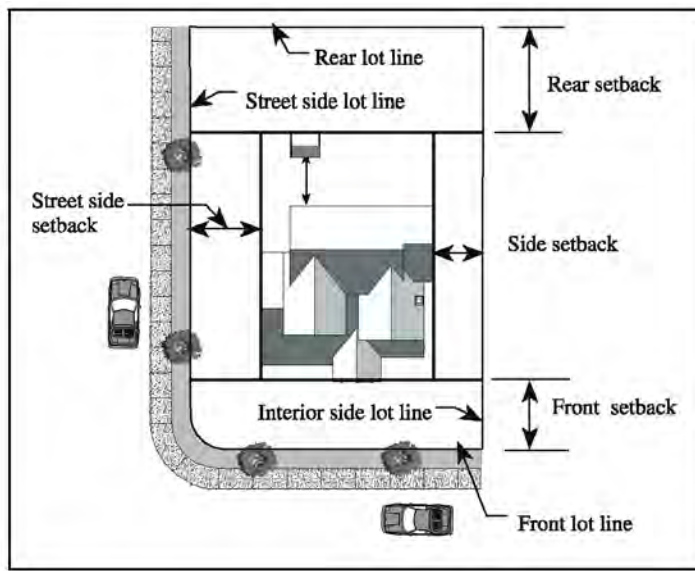
d. No structure shall exceed a maximum height of 150 feet above grade.

e. Such height shall be found consistent with all other applicable LCP policies, including policies C-DES-1, 2, and 3.

4. Setback Requirements and Exceptions.

A. In addition to other applicable LCP provisions, this section establishes setback standards, including those related to allowed uses in setbacks, minimum sizes for setbacks, and exceptions to setback standards. These standards are intended to provide for open areas around structures, including but not limited for: visibility and traffic safety; access to and around structures; access to natural light, ventilation and direct sunlight; separation of incompatible land uses; space for privacy, landscaping, and recreation; water quality protection; space to account for fire safety; and protection of significant public views, including views both to and along the ocean and scenic coastal areas as seen from public viewing areas. All setbacks are minimums and may be increased in order to meet LCP provisions, including those related to water quality and community character. Setback requirements and exceptions for coastal permits involving ESHA and coastal hazards are listed in 22.64.050 and 22.64.060, respectively.

FIGURE 3-5 **LOCATION AND MEASUREMENT OF SETBACKS**



B. Measurement of Setbacks. Setbacks shall be measured from property lines, as shown by Figure 3-5 (Location and Measurement of Setbacks), and as follows; however, if an access easement or street right-of-way line extends into or through a yard setback, the measurement shall be taken from the nearest point of the easement or right-of-way line, not the more distant property line. See Figure 3-6 (Front and Side Setbacks with Easements).

1. **Front yard setbacks.** The front yard setback shall be measured at right angles in from the front property line of the lot, establishing a setback line parallel to the front property line.

a. **Flag lots.** For a lot with a fee ownership strip extending from a street or right-of-way to the building area of the parcel, the measurement shall be taken in from the point where the access strip meets the bulk of the lot along a continuous line, establishing a setback line parallel to it. See Figure 3-7 (Flag Lot Setbacks).

FIGURE 3-6
FRONT AND SIDE SETBACKS WITH EASEMENTS

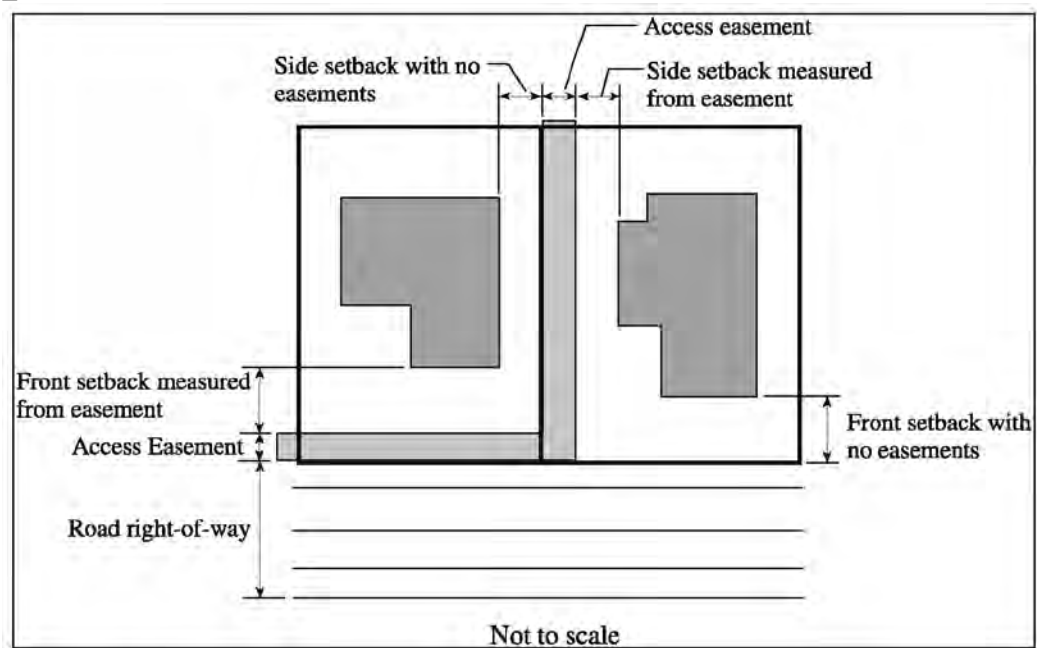
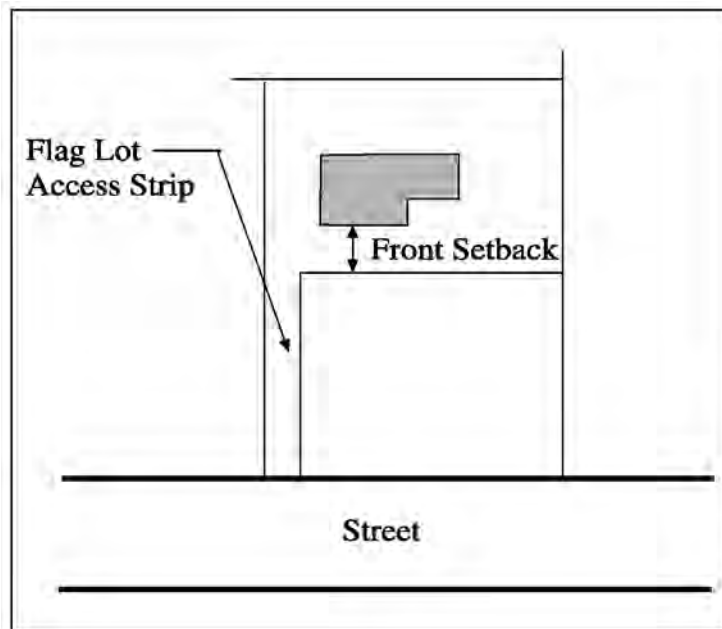


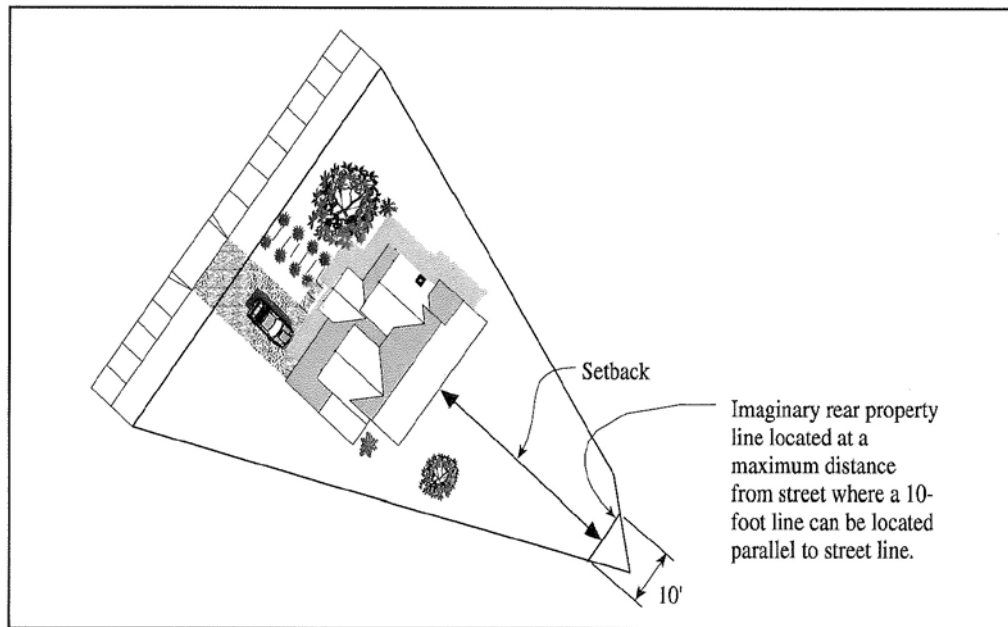
FIGURE 3-7
FLAG LOT SETBACKS



- b. **Corner lots.** The measurement shall be taken in from the property line adjoining the street to which the property is addressed and the street from which access to the property is taken.
2. **Side yard setbacks.** The side yard setback shall be measured at right angles in from the nearest point on the side property line of the lot; establishing a setback line parallel to the side property line which extends between the front and rear yards.

3. **Street side yard setbacks.** The side yard on the street side of a corner lot shall be measured at right angles in from the nearest point of the side property line adjoining the street, establishing a setback line parallel to the side property line which extends between the front and rear yards.
4. **Rear yard setbacks.** The rear yard shall be measured at right angles in from the nearest point on the rear property line, establishing a setback line parallel to the rear property line.
5. **Rear yard setbacks for irregular shaped lots.** On an irregular, triangular, or gore-shaped lot, where it is difficult to identify a rear lot line, the rear yard shall be measured at right angles from a line ten feet in length within the lot, parallel to and at a maximum distance from the front property line. See Figure 3-8 (Rear Setback in Irregular Parcels).

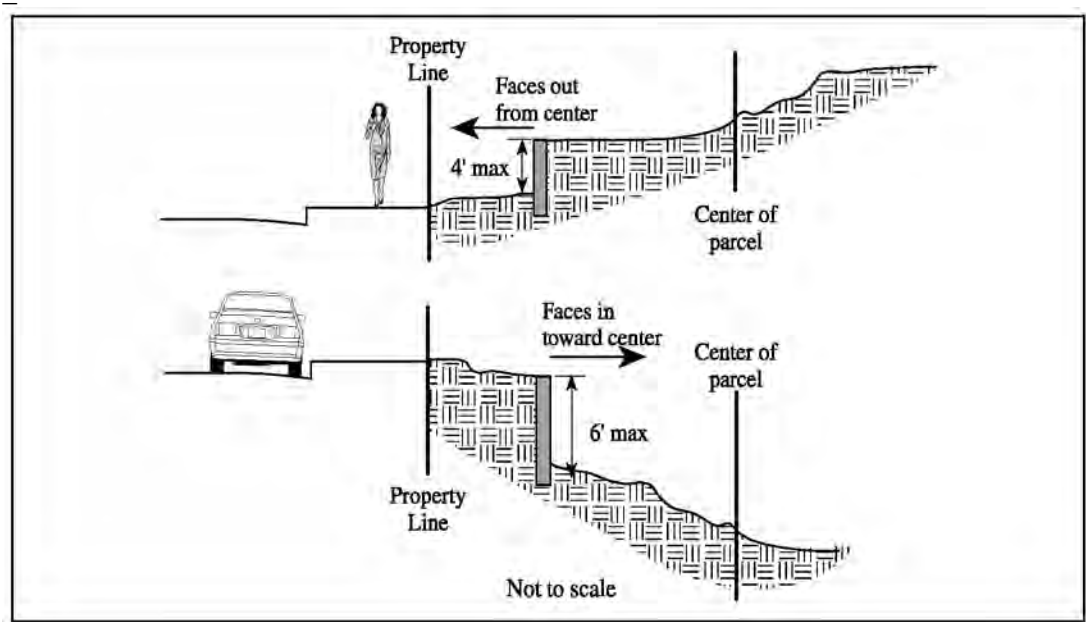
FIGURE 3-8
REAR SETBACK IN IRREGULAR PARCELS



- C. **Setback requirements.** Unless exempted in compliance with Subsections D and E, below, all structures shall conform with the setback requirements established for each zoning district by Article V (Coastal Zone Development and Resource Management Standards), and with any special setbacks established for specific uses by this Development Code, except as otherwise provided by this Section.
1. **General requirements.** In no case shall any portion of a structure, including eaves or roof overhangs, extend beyond a property line, or into an access easement or street right-of-way.
 2. **Accessory structures.** Detached accessory structures shall comply with the same setback requirements established by the applicable zoning district for primary structures, except as follows:
 - a. **The minimum rear yard setback for a detached accessory structure shall equal the minimum side setback, and no less than ten feet; except that the rear setback on a through lot shall be 20 percent of the lot depth to a maximum of 25 feet.**

- b. The total aggregate floor area of all detached accessory structures shall not exceed 30 percent of the area contained within the boundaries of the setback required in the rear yard.
 3. **Detached site elements.** Detached decks, swimming pools and spas, steps, terraces, and other site design elements that are placed at or below grade, and which exceed a height of 18 inches above grade at any point, shall conform with the setback requirements of this Chapter for detached accessory structures. Hand railings and other safety features required by the Uniform Building Code and attached directly to a detached site element shall not be included in the measurement of the maximum height of the detached site element.
 4. Site design elements less than 18 inches above grade are exempt from setback requirements in compliance with Subsection D (Exemptions from setback requirements), below. Examples of site design elements less than 18 inches above grade include ponds, shuffleboard courts, and water elements (e.g., fountains, sprays, etc.).
- D. **Exceptions from setback requirements.** The minimum setback requirements of this Development Code shall apply to all development except the following.
1. Fences, walls, trellises, planted hedges and vegetated screens, and similar structures that comply with the height limits specified in Fencing and Similar Structure Standards;
 2. Detached energy efficiency devices located within required rear yard and side yards that do not exceed a height of four feet in height above grade;
 3. Decks, freestanding solar devices, swimming pools and spas, steps, terraces, and other site design elements which are placed at or below grade and do not exceed a height of 18 inches above grade at any point. Hand railings and other safety features required by the Uniform Building Code and attached directly to a detached site element which meets the criteria herein are exempt from the minimum setback requirements;
 4. Flag poles that do not exceed a height of 30 feet above grade; and
 5. Retaining walls. The following standards shall apply to all retaining walls. See Figure 3-9 (Maximum Height for Retaining Walls Exempt from Setbacks):
 - a. Retaining walls greater than six feet in height above grade shall be subject to the same setback requirements as the primary structure if the exposed face of the retaining wall faces into the center of the property.
 - b. Retaining walls greater than four feet in height above grade shall be subject to the same setback requirements as the primary structure if the exposed face of the retaining wall faces outward from the center of the property.

FIGURE 3-9
MAXIMUM HEIGHT FOR RETAINING WALLS EXEMPT FROM SETBACKS



E. **Allowed projections into setbacks.** Attached architectural features and certain detached structures may project into or be placed within a required setback in compliance with the following requirements:

1. **Architectural features.** Architectural features attached to the primary structure may extend beyond the wall of the structure and into the front, side and rear yard setbacks, in compliance with Table 3-1 (Allowed Projections into Setbacks). See also Figure 3-10 (Examples of Allowed Projections into Required Setbacks).

TABLE 3-1
ALLOWED PROJECTIONS INTO SETBACKS

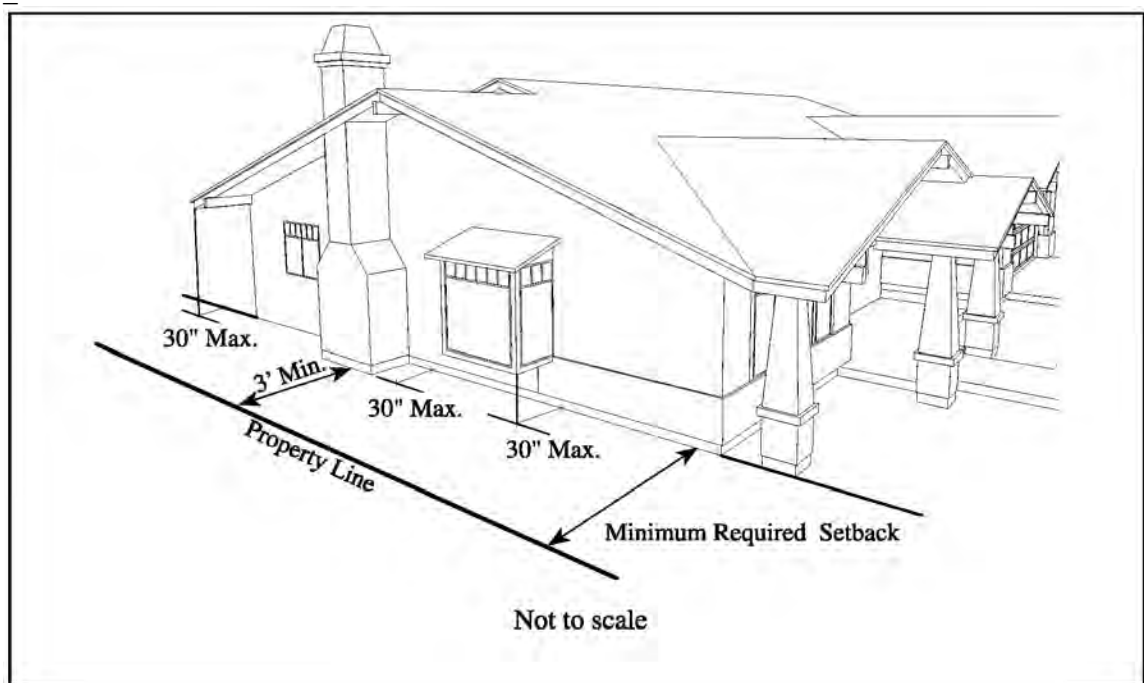
<u>Feature</u>	<u>Allowed Projection into Specified Setback</u>		
	<u>Front Setback</u>	<u>Side Setback</u>	<u>Rear Setback</u>
<u>Chimney (1)</u>	<u>30 in.</u>	<u>30 in.</u>	<u>30 in.</u>
<u>Cantilevered architectural features (2)</u>	<u>30 in.</u>	<u>30 in.</u>	<u>30 in.</u>
<u>Deck (3)</u>	<u>6 ft.</u>	<u>3 ft. (1)</u>	<u>6 ft.</u>
<u>Porch (4)</u>	<u>6 ft.</u>	<u>3 ft. (1)</u>	<u>6 ft.</u>
<u>Solar devices and tankless water heaters</u>	<u>30 in.</u>	<u>30 in.</u>	<u>30 in.</u>
<u>Stairway (5)</u>	<u>6 ft.</u>	<u>3 ft. (1)</u>	<u>6 ft.</u>

Notes:

- (1) Feature may project no closer than three feet to the property line.
- (2) Cantilevered architectural features including balconies, bay windows, cornices, eaves and roof overhangs may project into setbacks as shown.

- (3) Decks less than 18 inches above grade are exempt, in compliance with Exceptions from Setback Requirements, above.
- (4) A porch may project into a setback, provided it is enclosed only by a railing and is located at the same level as the entrance floor of the structure. An additional projection into the front yard setback may be allowed, provided it does not exceed 40% of the required porch setback permitted by Table 3-1. (For example, in a R-1 zoning district, Table 3-1 would allow the porch to maintain a 19-foot front yard setback. An additional 7.6-foot encroachment (representing 40% of the 19-foot setback) resulting in an 11.4-foot front yard setback may be permitted.)
- (5) A stairway may project into a setback, provided it is not roofed or enclosed above the steps.
2. **Parking structures on steep lots.** In any zoning district allowing residential uses, where the slope of the one-half of the parcel beginning at the street-access side is 20 percent or more, or where the elevation of the parcel at the property line from which vehicular access is taken is five feet or more above or below the elevation of the adjoining street, a parking structure may be built to within three feet of the front and side property lines that abut the adjoining street from which vehicular access is taken.
3. **Trellises.** See Fencing and Similar Structure Standards - Height Limitations.

FIGURE 3-10
EXAMPLES OF ALLOWED PROJECTIONS INTO REQUIRED SETBACKS



- F. **Restrictions on the use of front yard setbacks in residential districts.** No junk or scrap shall be allowed in the front yard on any lot in any residential zoning district. This restriction includes the storage of operable or inoperable vehicles in other than improved parking or driveway areas.

22.64.050 – Biological Resources

A. Submittal requirements.

1. Biological studies.

- a. **Initial Site Assessment Screening.** The Marin County Community Development Agency (CDA) shall conduct an initial site assessment screening of all development proposals to determine the potential presence of Environmentally Sensitive Habitat Area (ESHA). The initial site assessment screening shall include a review of reports, resource maps, aerial photographs, site inspection and additional resources as necessary to determine the presence of ESHA.
- b. **Site Assessment.** A site assessment shall be submitted for those Coastal Permit applications where the initial site assessment screening reveals the potential presence of an Environmentally Sensitive Habitat Area (ESHA) within 100 feet of any portion of the proposed development. The permit will be ~~be~~ subject to a level of review that is commensurate with the nature and scope of the development project. A site assessment shall be prepared by a qualified biologist hired by the County and paid for by the applicant, and shall confirm the extent of the ESHA, document any site constraints and the presence of other sensitive resources, recommend buffers, development timing, and mitigation measures, ~~or including~~ required setbacks, and provide other information, analysis and potential modifications necessary to protect the resource. The site assessment shall thoroughly discuss alternatives and mitigation measures to avoid impacts to ESHA, and any finding that there is no feasible alternative to avoid ESHA impacts shall be supported by such analysis. Where habitat restoration or creation is required to eliminate or offset potential impacts to an ESHA, a detailed Restoration and Monitoring Plan shall be required, as provided in this section.
- c. **Buffer Areas.** Buffers shall be provided for ESHAs in accordance with the policies of C-BIO-3 (ESHA Buffers), C-BIO-19 (Wetland Buffers), or C-BIO-24 (Coastal Streams and Riparian Vegetation), in combination with the findings of a site assessment, as necessary to ensure the biological integrity and preservation of the habitat they are designed to protect. Maintain ESHA buffers in their natural condition, except as provided in C-BIO-20 (Wetland Buffer Adjustments), C-BIO-25 (Stream Buffer Adjustments) or C-BIO-4 (Protect Major Vegetation).

Determination of ESHA buffer requirements ~~shall~~ shall consider the following:

- 1) Habitat requirements of the ESHA, including the migratory patterns of affected species and tendency to return each season to the same nest site or breeding colony;
- 2) Sensitivity of the ESHA to disturbance;
- 3) Topography of the site;
- 4) Movement of stormwater;
- 5) Permeability of the soils and depth to water table;
- 6) Vegetation present;
- 7) Unique site conditions;
- 8) Whether vegetative, natural topographic, or built features (e.g., roads, structures) provide a physical barrier between the proposed development and the ESHA; and
- 9) The likelihood of increased human activity and disturbance resulting from the project relative to existing development.

10) For buffer reductions, the applicant has provided clear and convincing findings of the need for the reduction, the reduction allowed is absolute minimum necessary, and the reduction will prevent impacts that degrade the ESHA and will be compatible with the continuance of the ESHA.

- d. **Habitat Mitigation.** The only allowed development within ESHA, wetlands, and streams shall be those uses specifically identified in Land Use Plan Policies C-BIO-2, 14, 15, and 24, respectively. New development shall be sited and designed to avoid impacts to ESHA. If proposed development is a permissible use but there is no feasible alternative, including the no project alternative, that can eliminate-avoid significant impacts to ESHA, then the alternative that would result in the fewest or least significant impacts shall be selected. Residual adverse impacts to ESHA shall be fully mitigated, with priority given to on-site habitat mitigation. Off-site or fee-in-lieu habitat mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site habitat mitigation is more protective in the context of a biological analysis prepared by a qualified scientist and approved by the County of Marin. Any determination that it is infeasible to mitigate impacts onsite shall be supported by written findings. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.

Allowable hHabitat mitigation shall occur in accordance with the provisions of C-BIO-21 (Wetland Impact Mitigation) for wetlands or the findings of a site assessment, and shall be provided at a minimum ratio of 2:1 for on-site mitigation; 3:1 for off-site mitigation or 4:1 for an in-lieu fee where applicable. In determining required mitigation, the acreage of habitat impacted shall be determined based on the size of the approved development area, road/driveway area, required fuel modification on the project site, and required vegetation clearance, if any, on adjacent properties. Habitat mitigation may be required at an adjusted ratio or through other appropriate techniques as commensurate with the extent of habitat disruption, based on the specific requirements of the ESHA as determined through the site assessment.

2. **Site map.** Coastal Permit applications shall contain a detailed site plan showing existing and proposed construction, with major vegetation, water courses, natural features, and other probable wildlife areas.
3. **Restoration and Monitoring Plan.** Restoration and Monitoring Plans shall include the following:
- a. A clear statement of the ESHA habitat restoration goals. Characterization of the desired habitat, including an actual habitat, that can act both as a model for the restoration and as a reference site for developing success criteria.
 - b. Sampling of reference habitat using the methods that will be applied to the restoration site with reporting of resultant data.
 - c. Quantitative description of the chosen restoration site.
 - d. Requirements for designation of a qualified restoration biologist as the restoration manager who will be ~~personally~~ responsible for all phases of the restoration. Phases of the restoration shall not be assigned to different contractors without onsite supervision by the restoration manager.
 - e. A specific Grading Plan if the topography must be altered.
 - f. A specific Erosion Control plan if soil or other substrate will be significantly disturbed during the course of the restoration.
 - g. A Weed Eradication Plan designed to eradicate existing weeds and to control future invasion by exotic species that is carried out by hand weeding and supervised by a restoration biologist.

- h. A Planting Plan that specifies a detailed plant palette based on the natural habitat type that is the model for the restoration, using local native and non-invasive stock and requiring that if plants, cuttings, or seed are obtained from a nursery, the nursery must certify that they are of local origin and are not cultivars. The Planting Plan should provide specifications for preparation of nursery stock and include technical details of planting methods (e.g., spacing, mycorrhizal inoculation, etc.)
- i. An Irrigation Plan that describes the method and timing of watering and ensures removal of watering infrastructure by the end of the monitoring period.
- j. An Interim Monitoring Plan that includes maintenance and remediation activities, interim performance goals, assessment methods, and schedule.
- k. A Final Monitoring Plan to determine whether the restoration has been successful that specifies:
 - 1) A basis for selection of the performance criteria,
 - 2) Types of performance criteria,
 - 3) Procedure for judging success,
 - 4) Formal sampling design,
 - 5) Sample size,
 - 6) Approval of a final report, and
 - 7) Provision for possible further action if monitoring indicates that initial restoration has failed.

4. Additional information. Based on review of the provided information, the County may request additional information to address site-specific conditions and/or as part of the environmental review process.

B. Biological Resource standards. Development shall be consistent with the Biological Resources Policies of the LUP, including, but not limited to:

- 1. **Environmentally Sensitive Habitat Areas (ESHAs).** The resource values of ESHAs shall be protected by limiting development per Land Use Plan Policies C-BIO-1, C-BIO-2, and C-BIO-3.
- 2. **Habitats of rare or endangered species and unique plant communities.** Habitats of rare and endangered species and unique plant communities shall be protected by limiting development in those areas and providing adequate buffers surrounding those areas per Land Use Plan Policy C-BIO-3.
- 3. **Ecological restoration.** Encourage restoration of degraded ESHAs per Land Use Plan Policy C-BIO-5.
- 4. **Invasive plants.** Where feasible, require the removal of non-native, invasive plant species, revegetation of denuded areas with native and non-invasive plants, and provision of primarily native, drought-tolerant plant species for areas of new or replacement planting, per Land Use Plan Policy C-BIO-6.
- 5. **Coastal dunes and beaches.** Coastal dunes and beaches shall be preserved by limiting development in those areas per Land Use Plan Policies C-BIO-7, C-BIO-8, and C-BIO-9.
- 6. **Roosting and nesting habitat.** Roosting and nesting habitat and the grassy shorebird feeding areas adjacent to Bolinas Lagoon shall be protected by limiting development per Land Use Plan Policies C-BIO-10, and C-BIO-11, ~~and C-BIO-12.~~

7. **Biological productivity.** The biological productivity and quality of coastal waters, coastal streams, coastal wetlands, coastal estuaries and coastal lakes shall be maintained, and where feasible, enhanced ~~per Land Use Plan Policy C-BIO-13.~~
8. **Coastal wetlands.** Coastal wetlands shall be preserved and maintained as productive wildlife habitats, water filtering and storage areas, and, as appropriate, recreational open space, by limiting diking, dredging, and draining per Land Use Plan Policies C-BIO-14, C-BIO-15, C-BIO-16, and C-BIO-17, disposing of dredged materials per Land Use Plan Policy C-BIO-18 and mitigating wetland impacts per Land Use Plan Policy C-BIO-21.
9. **Coastal wetland buffers.** Adequate buffers shall be maintained surrounding coastal wetlands per Land Use Policy C-BIO-19 unless an adjustment to standard buffers is granted per Land Use Plan Policy C-BIO-20.
10. **Marine resources.** Marine resources shall be maintained, enhanced, and where feasible, restored and special protection shall be provided to areas and species of special biological or economic significance per Land Use Plan Policy C-BIO-23.
11. **Coastal streams, riparian vegetation, and buffers.** Alterations to coastal streams and riparian vegetation shall be limited to the uses specified in Land Use Plan Policy C-BIO-24, and adequate buffers shall be provided surrounding those resources per Land Use Plan Policy C-BIO-~~“TBD”~~²⁴, unless an adjustment to the standard buffers is granted per Land Use Plan Policy C-BIO-25. Any alteration of riparian vegetation which is allowed under these policies shall require an erosion control plan and re-vegetation plan that incorporates native species to the maximum extent feasible.

[BOS app. 10/2/2012]

22.64.060 – Environmental Hazards

A. Application requirements.

1. Environmental Hazards Evaluation ~~report.~~

a. Initial Site Assessment. The reviewing authority shall conduct an initial site assessment screening of all Coastal Permit applications to determine whether the site is or will be subject to geologic or other hazards over a timeframe of a minimum of 100 years. Geological or other hazards are defined to include Alquist-Priolo earthquake hazards zones; areas subject to tsunami runup, landslides, liquefaction, episodic and long-term shoreline retreat (including beach or bluff erosion), high seas, ocean waves, storms, tidal scour, flooding; steep slopes averaging greater than 35 percent; unstable slopes regardless of steepness; and flood hazard areas, including those areas potentially inundated by future sea level rise. The screening shall include a review of reports, resource maps, aerial photographs, site inspection, and the County's hazards maps. The County's hazard mapping program can be used as a resource for identification of hazard areas; however, absence of mapping cannot alone be considered absence of hazard, and local site conditions must be examined at the time of permit application using the best available science. Best available science with respect to sea-level rise means peer-reviewed and well-documented climate science using empirical and evidence based data that establishes a range of locally-relevant future sea-level rise projections. At the time of this LCP certification (2015), the best available science on sea-level rise in California is the 2012 National Research Council (NRC) Report, *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future* (NRC, 2012). However, any other

document that meets the above definition may be used for planning purposes in Marin's coastal zone.

b. Environmental Hazards Report. Where the initial site assessment reveals that the proposed development is located on a blufftop, near the shoreline (i.e., at or near the ocean-sand interface and/or at very low lying elevations in areas near the shoreline), or within 100 feet of an area potentially subject to geologic or other hazards over the 100 year assessment time frame, the project shall include an Environmental Hazards Report prepared by a qualified registered civil or structural engineer or licensed geologist or engineering geologist. The Report shall describe the extent of potential environmental hazards on the site over the minimum 100 year timeframe, and recommend construction, siting and other techniques to avoid and minimize possible environmental hazards. Reports addressing tsunami runup, beach or bluff erosion, wave impacts and flood hazards shall include evaluation of potential changes to the hazard due to sea level rise that might occur over the life of the development and the 100 year assessment time frame. Existing shoreline protective devices shall not be factored into the required analyses. The Report shall be required to demonstrate that, subject to the Report's recommended measures, all of the following findings can be made: (1) that the development will be sited and designed to assure stability and structural integrity for the development's lifetime and a minimum of 100 years, (2) that the development will be set back a sufficient distance from identified hazard areas so as to not create a hazard or diminish the stability of the area, and (3) that the development will not require the construction of shoreline protective devices during its lifetime, including at the time of the initial development proposal. All development located within hazardous areas, including all development located on blufftops and near the shoreline, shall also comply with the requirements of Section 22.64.060.B.8. In addition to the Environmental Hazards Report requirement of this subsection A(1), development on blufftops or near the shoreline must also meet the requirements of subsections A(2) and A(3), below, including requiring supplementary analyses within the Environmental Hazards Report. (Land Use Plan Policy C-EH-2)

~~Coastal permit applications for development in areas potentially subject to geologic or other hazards as mapped by the County at the time of Coastal Permit application, including Alquist Priolo earthquake hazards zones, areas subject to tsunami runup, landslides, liquefaction, beach or bluff erosion, steep slopes averaging greater than 35 percent, unstable slopes regardless of steepness, flood hazard areas, or areas potentially inundated by accelerated sea level rise, shall include a report by a qualified registered civil or structural engineer describing the extent of potential environmental hazards on the site and recommended construction, siting and other techniques to minimize possible environmental hazards. The report shall demonstrate that, subject to the recommended measures, the area of construction is stable for development that the development will not create a hazard or diminish the stability of the area, and that the development will not require the construction of shoreline protective devices during its economic life (100 years). (Portion of Land Use Plan Policy C EH 2)~~

2. Additional Coastal Hazards Analysis for Blufftop and Shoreline Development.

a. Additional Application Requirements. All Coastal Permit applications for alterations to existing structures (including additions, exterior and/or interior renovations, repair and maintenance, and demolition) shall clearly identify: (1) all major structural components that are being altered; and (2) the cost of the alteration project and the market value of the existing structure being altered before construction. Major structural components are defined and identified in the definition of "Redevelopment, Coastal (coastal)" in Article

VIII. The application must also identify any previous changes to such major structural components since February 1973, including identifying all associated Coastal Permits.

b. Blufftop Development. In addition to the requirements for the Environmental Hazards Report identified in subsection A(1) above, Coastal Permit applications for development, including coastal redevelopment and additions to existing structures proposed: 1) on a blufftop; or 2) on a site located in stability zone 2, 3, or 4 as indicated on the Slope Stability of the Bolinas Peninsula Study Area map which accompanies Wagner's 1977 report, "Geology for Planning, Western Marin County" (hereby incorporated by reference as part of this Development Code), shall be required to supplement the Environmental Hazards Report with an analysis that evaluates the effect of geologic and other hazards at the site to ensure the proposed development's stability and structural integrity, and to ensure that the blufftop development is safe from bluff retreat, without the need for shoreline protective devices for the development's lifetime and a minimum of 100 years. The supplementary analysis shall include an evaluation of the long-term average annual bluff erosion rate, and shall include a quantitative slope stability analysis demonstrating a minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, $k = 0.15$ or determined through analysis by the geotechnical engineer). The erosion rate and slope stability shall be determined using the best available science, including being based upon an examination of the historic and projected rates of bluff retreat associated with wave, wind and/or surface runoff erosion, continued and future sea level rise and, to the maximum extent feasible, to take into account the effect of strong seismic shaking. Existing shoreline protective devices shall not be factored into the required analyses. The erosion rate and slope stability information shall be used to determine the appropriate blufftop setback as specified in Section 22.64.060.B.2 below. The supplementary analysis shall also list the required Coastal Permit conditions necessary to ensure that the structure is relocated and/or removed (and the site restored) whenever the development is deemed hazardous and unsafe for human occupancy, as specified in subsection (d), below. (Policy C-EH-5)

c. Shoreline Development. In addition to the requirements for the Environmental Hazards Report identified in subsection A(1) above, Coastal Permit applications for shoreline development, including new development on vacant/undeveloped lots, additions to existing structures, and coastal redevelopment shall be required to supplement the Environmental Hazards Report with an analysis that demonstrates that the proposed development will be set back a sufficient distance from the shoreline to ensure stability and structural integrity for the development's lifetime and a minimum of 100 years without the need for shoreline protective devices, and such analysis shall not factor in the presence of any existing shoreline protective devices. For coastal redevelopment, if there is insufficient space on a property to feasibly meet the setback requirements, then such development may meet the minimum 100-year stability and structural integrity requirement through setting back as far as feasible in tandem with the use of caisson/pier foundations and elevation (including if elevation of the structure is necessary to meet Federal Emergency Management Agency (FEMA) flood requirements) but no other type of shoreline protective device is allowed. The supplementary analysis shall also evaluate the effect of the project over time (including in response to sea level rise) on coastal resources (including protection of public access, shoreline dynamics, natural landforms, and public views). The analysis shall consider not only the primary structure, but also the effects of related development, such as required ingress/egress to structures and the provision of services (e.g., water, wastewater, etc.). The supplementary analysis shall also list the required Coastal Permit conditions necessary to ensure that the structure is relocated and/or removed (and the site restored) whenever the development is deemed hazardous and unsafe for human occupancy, as specified in subsection (d), below. The provisions of this subsection allowing the use of

caisson/pier foundations and elevation for shoreline redevelopment in certain circumstances shall apply until April 30, 2017 or until this subsection is amended, whichever occurs first. If a complete LCP amendment to amend this subsection is not submitted as of April 30, 2017 (including where subsequent withdrawal of such LCP amendment will deem it to have not been submitted), then shoreline redevelopment will no longer be allowed to meet minimum 100-year stability and structural integrity requirements through the use of caisson/pier foundations and elevation. The April 30, 2017 deadline may be extended for good cause by the Executive Director of the Coastal Commission.

d. Removal and Restoration. Development located on bluffs and/or near the shoreline shall be sited, designed, and built in a manner that facilitates removal and/or relocation of the development (including its foundation, and all other related development (e.g., utilities and driveways)) before a shoreline protective device is needed. In addition to the requirements for the Environmental Hazards Report identified in subsection A(1) above, Coastal Permit applications for development located on bluffs and/or near the shoreline shall identify all measures to be taken to facilitate such future removal and/or relocation. All Coastal Permits shall be conditioned to require the approved development to be relocated and/or removed outside of the area subject to coastal hazards if an appropriate government agency determines that any portion of the approved development is not to be occupied or used due to any coastal hazards, and such hazard concerns cannot be abated by ordinary repair and/or maintenance. The Coastal Permit conditions shall require that, prior to removal/relocation, the Applicant shall prepare a Removal and Restoration Plan for review and approval by the Reviewing Authority. If the Reviewing Authority determines that an amendment to the Coastal Permit or a separate Coastal Permit is legally required, the Applicant shall immediately submit the required application, including all necessary supporting information to ensure it is complete. The Removal and Restoration Plan shall clearly describe the manner in which such development is to be relocated and/or removed and the affected area restored so as to best protect coastal resources, and shall be implemented immediately upon Reviewing Authority approval, or approval of the Coastal Permit or amendment application, if necessary.

~~**Geotechnical investigation for blufftop development.** Coastal permit applications for development proposed: 1) on a blufftop parcel; or 2) on a site located in stability zone 2, 3, or 4 as indicated on the Slope Stability of the Bolinas Peninsula Study Area map which accompanies Wagner's 1977 report, "Geology for Planning, Western Marin County" (hereby incorporated by reference as part of this Development Code), shall include a complete geotechnical investigation which determines the retreat rate (or long term annual average erosion rate) for the property on which development is proposed. The retreat rate shall be determined based upon an examination of the historic and projected rates of bluff retreat attributable to wave, wind and/or surface runoff erosion and to the extent feasible, take into account the hazards associated with strong seismic shaking and the risk of continued and accelerated sea level rise. The retreat rate shall be used to determine the appropriate blufftop setback as specified in Section 22.64.060.B.2 below. (Policy C EH 5)~~

3. **Drainage plan for blufftop development.** Coastal Permit applications for development proposed on a blufftop parcel shall include a drainage plan prepared by a civil engineer, which indicates how rainwater and irrigation runoff will be directed away from the top of the bluff or handled in a manner which prevents damage to the bluff by surface and percolating water. Blufftop landscaping shall be required to use drought tolerant native species with minimal irrigation.
4. **Engineering report for shoreline protective devices.** Coastal Permit applications for the construction or reconstruction of any shoreline protective device, including revetments,

breakwaters, groins, seawalls, bluff retention devices, deep piers/caissons, or other artificial structures for coastal erosion control and hazards protection shall include a report from a professional civil engineer or certified engineering geologist experienced with coastal processes and structures verifying that the device is necessary ~~for coastal erosion control~~ and explaining how the device ~~it~~ will perform its intended function and the extent to which it will meet the criteria and standards contained in Section 22.64.060.BC.75 below. The report shall include information on the existing structure/public beach that is being threatened by erosion; likely time period when the structure/public beach will be in danger from erosion; and an analysis of alternatives to a shoreline protective device that are capable of protecting existing threatened structures/beaches from erosion including: no action, involvement in regional beach nourishment, a different type of shore protection, options for bioengineering and groundwater controls, and modification to, resizing or relocation of the threatened structure. In addition, the report shall include the following information:

- (a) For the shoreline in question: long term and seasonal erosion trends, the effects of ~~accelerated~~ future sea level rise ~~due to climate change~~ on future erosion rates, and the potential effects of infrequent storm events, such as a 100-year storm;
- (b) The amount of beach that will be covered by the shoreline protective device;
- (c) The amount of beach that will be lost through passive erosion over the life of the shoreline protective device;
- (d) The amount of sand generating materials that will be contained and not allowed into the shoreline system over the life of the shoreline protective device;
- (e) Total lineal feet of shoreline protective devices within the littoral zone where the device is proposed;
- (f) The cumulative impact of added shoreline protective devices ~~from~~ to the littoral cell within which the proposed device will be located; ~~and~~
- (g) Measures to reduce or minimize visual impacts for the shoreline protective device;
- (h) Measures to modify or adapt the shoreline protective device in the event it is not adequate to provide protection in the future due to changes in sea level or storm conditions;
- (i) Impacts to beach access, recreation, beach habitat, and shoreline ecosystems from the shoreline protective device; and
- (j) Provision for future maintenance of the shoreline protective device, for future removal of the shoreline protective device if and when it reaches the end of its economic or functional life, and for changes in the shoreline protective device if needed to respond to alterations in the development for which the device was installed.

5. **New development and fire safety.** Coastal Permit applications shall demonstrate that the new development meets all applicable fire safety standards, including accounting for all necessary defensible space within the developable area of a site.

B. Environmental Hazard standards. Development shall be consistent with the Environmental Hazard Policies of the LUP, including but not limited to:

1. **Blufftop setbacks.** Proposed structures, including accessory structures, shall be set back a sufficient distance from coastal blufftop edges to ensure that they will not be threatened by bluff retreat within their expected economic lifetime (the evaluation timeframe shall be a minimum of 100 years) and will not require shoreline protection ~~improvements~~ per Land Use Plan Policy C-EH-5.
2. **Determination of blufftop setbacks.** The geologic setback, as measured from the bluff edge, shall be sufficient to maintain a minimum factor of safety against sliding of at least 1.5 for the expected life of the development, or a minimum of 100 years. Thus the distance from the bluff edge where a minimum factor of safety of 1.5 is achieved today shall be added to the expected bluff retreat over the next 100 years. ~~Adequate bluff setback distances will be determined based on the information provided in the geologic report required pursuant to Section 22.64.060.A.2 and the following setback formula (where 100 years represents the economic life of a structure and 1.5 represents a minimum safety factor):~~

$$\begin{aligned} \text{Setback (meters)} &= 100 \text{ (years)} \times \text{Retreat Rate (meters/year)} \\ &+ \text{setback to achieve a slope stability Factor of Safety} \\ &\text{of at least 1.5 (minimum factor of safety)} \end{aligned}$$

3. **Shoreline access facilities on blufftop parcels.** Shoreline access facilities, such as stairways and ramps, may only be permitted per Land Use Plan Policy C-EH-7 and C-EH-16.
4. **Bolinas Bluff Erosion Zone setback exceptions and waivers.** Within established Bluff Erosion Zones on the Bolinas Mesa, no new construction shall be permitted on vacant lots. Residential additions no greater than 10 percent of the existing floor area or 120 square feet (whichever is greater) may be permitted on a one-time basis so long as such additions conform with all applicable LCP policies.
5. **Shoreline Development.** New shoreline development (including new development on vacant/undeveloped lots, additions to existing structures, and coastal redevelopment) shall be consistent with Land Use Policy C-EH-5, including being set back a sufficient distance from the shoreline to ensure stability and structural integrity for the development's lifetime and a minimum of 100 years without the need for shoreline protective devices.
6. **Drainage on Blufftop Parcels.** Surface and subsurface drainage associated with development of any kind shall not contribute to the erosion of the bluff face or the stability of the bluff itself consistent with Land Use Policy C-EH-6.
7. **Criteria and design standards for shoreline protective devices.** Shoreline protective devices in the Coastal Zone are discouraged due to their visual impacts, obstruction of public access, interference with natural shoreline processes and water circulation, and effects on marine habitats and water quality. The construction or reconstruction of shoreline protective devices shall only be allowed subject to the criteria contained in Land Use Plan Policies ~~C-EH-13, and the design standards contained in Land Use Plan Policy~~ C-EH-14, and C-EH-18. Emergency Coastal Permit applications for shoreline protective devices may be considered in compliance with Section 22.70.130 (Emergency Coastal Permits) consistent with the Land Use Plan Policy C-EH-21.

6. **Accessory structures in hazardous areas.** Accessory structures on blufftop/shoreline parcels shall be designed and constructed in conformance with Land Use Plan Policy C-EH-15.
7. **Seismic safety standards.** ~~Proposed structures~~Development shall meet the seismic safety standards of the Alquist-Priolo Act (Land Use Plan Policy C-EH-4).
8. **Applicant's assumption of risk.** ~~The Applicants owner of property proposed~~ for development in hazardous areas shall be required to record a Liability Waiver and Acknowledgement exempting the County from liability for any personal or property damage caused by geologic or other hazards per Land Use Plan Policy C-EH-3. In addition, for blufftop and shoreline development, the owner shall be required to record a deed restriction acknowledging that future shoreline protective devices to protect structures authorized by such Coastal Permit are prohibited per Land Use Plan Policy C-EH-3 and waiving any right that may exist to construct such devices.
9. **Prohibition on Creation of new parcels abutting coastal waters.** Creation of new parcels on lands abutting the ~~ocean, bays, lagoons, or other coastal water bodies~~ shoreline shall be prohibited unless the new parcel can be developed ~~with structures that will~~ consistent with all applicable LCP provisions, including that development on the created parcel will not require a shoreline protective device during ~~their its~~ economic lifetime.
10. **Major Vegetation Management.** Coastal Permit applications for the ~~management or~~ removal of major vegetation must meet criterion (a) below, and at least one of criteria (b) through (k) for removal. Major vegetation removal around existing development for fire safety purposes shall comply with Land Use Plan Policy C-EH-25.
 - (a) The major vegetation removal shall ~~does not~~: 1) not adversely affect any environmentally sensitive habitat areas; 2) not adversely impact coastal waters; 3) ~~adversely impact~~ protect significant public views, including views both to and along the ocean and scenic coastal areas as seen from public viewing areas; and 4) not conflict with conditions of approval of a prior coastal permit.
 - (b) The general health of the major vegetation is so poor due to disease, damage, or age that efforts to ensure its long-term health and survival are unlikely to be successful, or removal of the major vegetation is necessary to ensure the health and survival of surrounding vegetation native to the locale;
 - (c) The major vegetation is infected by a pathogen or attacked by insects that threaten surrounding major vegetation as determined by an arborist report or other qualified professional;
 - (d) The major vegetation is a potential public health and safety hazard due to risk of falling and its structural instability cannot be remedied;
 - (e) The major vegetation is a public nuisance by causing damage to improvements, such as building foundations, retaining walls, roadways/driveways, patios, sidewalks and decks, or interfering with the operation, repair or maintenance of public utilities;
 - (f) The major vegetation has been identified by a Fire Inspector as a fire hazard that requires removal;

- (g) The major vegetation was planted for a commercial enterprise, such as a Christmas tree farm or orchard;
- ~~(h) Prohibiting the removal of the major vegetation will conflict with CC&R's which existed at the time this Chapter was adopted;~~
- (i) The major vegetation is located on land which is zoned for agriculture (C-ARP or C-APZ) and is being used for commercial agricultural purposes;
- (j) The major vegetation removal is proposed by a public agency to provide for the routine management and maintenance of public land or to construct a fuel break;
- (k) The major vegetation is non-native and is not defined as a "protected and heritage tree" in Article VIII (Definitions).

11. Seadrift. The Environmental Hazard standards listed above are not intended to override or otherwise preclude compliance with any entitlements that may exist under the Seadrift Settlement Agreement and Coastal Commission Coastal Permit A-1-MAR-87-235 as amended (through and including Coastal Permit Amendment A-1-MAR-87-235-A).

22.64.080 – Water Resources

A. Application requirements.

1. Water Quality Impairment Assessment. The Reviewing Authority shall conduct a water quality assessment of all development proposals, including for both new development and modifications to existing development, to identify potential water quality impacts. Where the assessment reveals the potential for water quality impairment, the project shall be required to have a plan which addresses both temporary (during construction) and permanent (post-construction) measures to control erosion and sedimentation, to reduce or prevent pollutants from entering storm drains, drainage systems and watercourses, and to minimize increases in stormwater runoff volume and rate.

24. Drainage plans. Coastal permit applications for development that would add or create a total of 10,000 square feet or more of impervious surface (collectively over the entire project site) or would alter drainage patterns, shall be accompanied by a preliminary drainage plan. The plan shall include existing and proposed drainage patterns and storm drain improvements for the site, all structures and impervious areas, and any other improvements. The plan must indicate the direction of surface runoff and method of on-site runoff dispersal for existing and proposed drainage channels or facilities. Draining to existing watercourses or detention basins may be allowed if negative impacts to biological resources, water quality, channel stability or flooding of surrounding properties can be avoided or if existing soil conditions do not allow infiltration. Hydrologic calculations ~~may~~ shall be required to determine whether there would be any additional surface run-off resulting from the development.

32. Structural and/or treatment control facilities: monitoring and maintenance plans. If structural and/or treatment control facilities are incorporated in a project, the applicant shall submit a monitoring and maintenance plan indicating how such facilities will be adequately maintained by the applicant and any subsequent property owner after construction is complete. (Policy C-WR-12)

- 43. Site Plan – Post Construction Element.** At the discretion of the County based on the scale or potential water quality impacts of a proposed project, the applicant shall submit a site plan containing a Post-Construction Element. This plan shall detail how stormwater and polluted runoff will be managed or mitigated following project construction, utilizing both source control and treatment control measures, and both structural and non-structural measures. (Policy C-WR-13)
- 54. Grading plans.** Coastal permit applications for any cut, fill, or grading shall be accompanied by a preliminary grading plan that indicates existing and proposed contours across the building site and existing and proposed average lot slope.
- 65. Geotechnical reports.** A geotechnical report may be required ~~at the discretion of the Department of Public Works~~ if proposed cut and fill slopes are determined to be steeper than is safe for the subject material or necessary for the intended use. (Policy C-WR-5)
- 76. Erosion and sedimentation control plans.** An erosion and sedimentation control plan, subject to approval by the Department of Public Works, shall be required for development of any site of 1 acre or more in size or, at the discretion of the Department of Public Works, for any site of less than 1 acre because of a high risk of erosion and sedimentation. Such plan is also required for all projects listed under Policy C-WR-14 that involve grading. (Policy C-WR-6)
- 87. Site Plan Contents – Construction Phase.** All projects that would add or create a total of 10,000 square feet or more of impervious surface (collectively over the entire project site), projects that may impact environmentally sensitive habitat (i.e. projects within, directly adjacent to or discharging directly to an environmentally sensitive habitat area), county-defined high-impact projects or other projects that the county staff finds to be a threat to coastal water quality, shall require a Construction-Phase element shown on the site plan. The Construction-Phase element shall specify which interim Best Management Practices (BMPs) will be implemented to minimize erosion and sedimentation during construction and address potential construction runoff contamination with fuels, lubricants, cleaning agents and/or other potential construction-related pollutants or chemicals.

In the application and initial planning process, the applicant shall submit for review and approval a Construction-Phase element that shall include, at a minimum, a narrative report describing all interim erosion, sedimentation, and polluted runoff control BMPs to be implemented during construction, including the following where applicable:

- (a) Controls to be implemented on the amount and timing of grading;
- (b) BMPs to be implemented for staging, storage, and disposal of excavated materials;
- (c) Design specifications for treatment control BMPs, such as sedimentation basins;
- (d) Revegetation or landscaping plans for graded or disturbed areas;
- (e) Methods to manage affected onsite soils;
- (f) Other soil stabilization BMPs to be implemented;
- (g) Methods to infiltrate or treat stormwater prior to conveyance off-site during construction;

- (h) Methods to eliminate or reduce the discharge of other stormwater pollutants resulting from construction activities (e.g., paints, solvents, vehicle fluids, asphalt and cement compounds, and debris) into stormwater runoff;
- (i) Plans for the clean-up of spills and leaks;
- (j) BMPs to be implemented for staging, storage, and disposal of construction chemicals and materials;
- (k) Proposed methods for minimizing land disturbance activities, soil compaction, and disturbance of natural vegetation;
- (l) A site plan showing the location of all temporary erosion control measures; and
- (m) A schedule for installation and removal of the temporary erosion control measures.

B. Water quality standards. Development shall be consistent with the Water Quality Policies of the LUP, including, but not limited to:

1. **Water quality protection.** The quality of coastal waters shall be monitored, protected, and enhanced for the benefit of natural communities, human health, recreational users, and the local economy (Land Use Plan Policy C-WR-1).
2. **Site design and source control measures.** Development shall meet the standards contained in Land Use Plan Policy C-WR-2.
3. **Drainage standards.** Development shall meet the standards contained in Land Use Plan Policy C-WR-3.
4. **Structural and/or treatment control facilities: proper maintenance.** Structural and/or treatment control facilities shall meet the requirements of Land Use Plan Policy C-WR-12.
5. **High impact projects: design standards.** Development that has a high potential for generating pollutants (High Impact Projects) shall incorporate treatment control Best Management Practices (BMPs) or ensure that the requirements of the current NPDES Municipal Stormwater permit are met, whichever is stricter, to address the particular pollutants of concern, including the requirements of Land Use Plan Policy C-WR-14.
6. **Construction Non-sediment Pollution.** Construction site practices shall be carried out consistent with Land Use Plan Policy C-WR-16.
7. **Construction Phase Pollution.** The construction site shall be managed to prevent contact between runoff and chemicals, fuel and lubricants, cleansers, and other potentially harmful materials.

C. Grading and excavation standards.

1. **Site planning.** Development shall meet the standards contained in Land Use Plan Policy C-WR-4.

2. **Preservation of landforms and native vegetation.** Development shall meet the standards contained in Land Use Plan Policies C-WR-4 and C-WR-5. Grading shall not take place on slopes greater than 35%, to the extent feasible.
3. **Extent and timing of grading.** Development shall meet the standards contained in Land Use Plan Policies C-WR-6 and C-WR-7.
4. **Erosion and sedimentation control.** Development shall meet the standards contained in Land Use Plan Policies C-WR-10 and C-WR-8.
5. **Impervious surfaces, runoff control.** Development shall meet the standards contained in Land Use Plan Policy C-WR-2.
6. **Sediment basins during construction.** Development shall meet the requirements of Land Use Plan Policy C-WR-10.
7. **Pollutants.** Pollutants, including chemicals, fuels and other harmful materials shall be collected and disposed of in an approved manner.
8. **Topsoil.** Development shall meet the requirements of Land Use Plan Policy C-WR-9.
9. **Removal of construction debris.** All debris shall be removed from the site upon the completion of the project.
10. **Erosion and Flood Control Facilities.** Consider placement of sediments collected by erosion and flood control facilities at appropriate points on the shoreline, consistent with Land Use Plan Policy C-WR-17.

22.64.100 – Community Design

- A. **Community Design standards.** Development shall be consistent with the Community Design policies of the LUP, including, but not limited to:
 1. **Compatible Design.** The height, scale, and design of new structures shall be compatible with the character of the surrounding natural or built environment per Land use Policy C-DES-1.
 2. **Protection of visual resources.** Development shall be sited and designed to protect visual resources per Land Use Policy C-DES-2.
 3. **Protection of ridgeline views.** New development proposed on or near visually prominent ridgelines shall be sited and designed per Land Use Policy C-DES-3.
 4. **Height limits.** Structures in the Coastal Zone shall be limited to a maximum height of 25 feet, unless a lower maximum height is required for other LCP reason (e.g., for specific zoning districts or types of development, etc.), with the exceptions provided for by Land Use Policy C-DES-4.
 5. **New Signs.** New Signs shall be of a size, location, and appearance so as not to detract from scenic areas or views from public roads and other viewing points (Land Use Policy C-DES-5). A Coastal Permit is required for any sign that could impact public recreational access, including parking opportunities near beach access points or parklands, such as any

changes in parking cost, timing or availability, and any signage prohibiting public parking, trespassing, and/or public coastal access. Coastal Permits for signs shall be consistent with all applicable LCP provisions, including the following additional objectives and standards:

A. Objective: Signs shall be sited and designed to:

- Protect public safety within the County and the visual quality of its communities;
- Protect uses, which are adequately and appropriately identified and advertised, from the installation of too many and too large signs;
- Protect commercial districts from visual chaos and economic detriment;
- Protect the public's ability to identify uses and premises without confusion;
- Eliminate unnecessary distractions that may diminish driving and pedestrian safety;
- Enhance and improve properties and their neighborhoods by encouraging signs that are compatible with and complementary to related structures and uses and harmonious with their surroundings; and
- Protect and enhance coastal resources, including, but not limited to, significant public views and community character.

B. Standards:

1. **Freestanding signs.** Freestanding signs shall be designed and located to be viewed primarily from the immediately surrounding public streets.

2. Prohibited Signs. The following types of signs, including in terms of illumination, sound, materials, and forms are prohibited:

A. Prohibited types of signs.

1. Private use signs located on public land or in a public right-of-way;
2. Signs cut, burned or otherwise marked on a cliff, hillside or tree;
3. Signs in storage or in the process of assemblage or repair, that are located outside of the premises other than that advertised in the sign, and are visible from a public right-of-way;
4. Billboards;
5. Digital commercial displays that can distract drivers;
6. Signs advertising a use no longer in operation; and
7. Roof top signs.

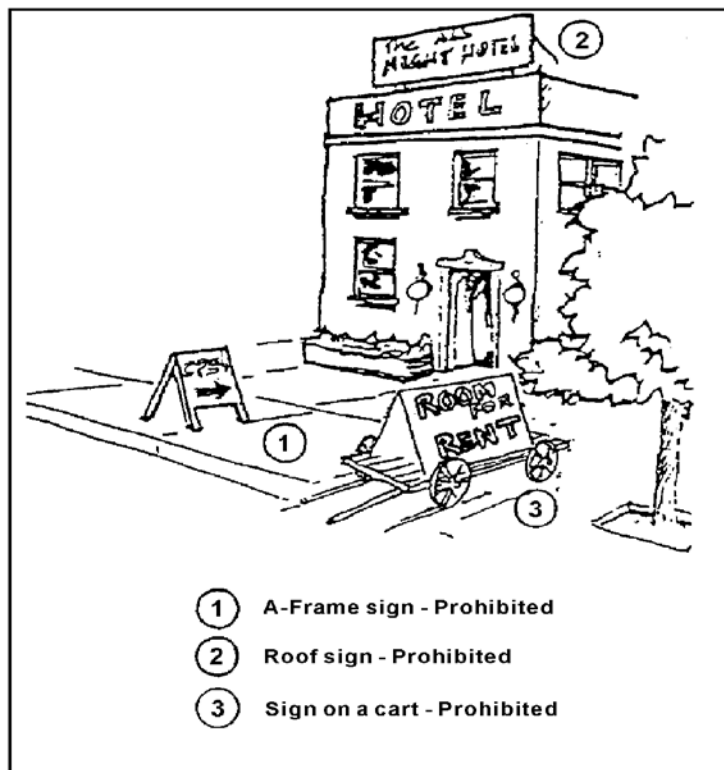
B. Prohibited types of illumination and sound. No electrical sign shall blink, flash or emit a varying intensity of color or light which would cause glare, momentary blindness or other annoyance, disability or discomfort to persons on surrounding properties or passing by.

C. Prohibited types of material and form.

1. Sign with reflective material;

2. Banners, pennants, streamers except in conjunction with an athletic event, carnival, circus, fair, or during the first 30 days of occupancy of a new structure or operation of a new business;
3. Signs, other than clocks or meteorological devices, having moving parts or parts so devised that the sign appears to move or to be animated; and
4. Portable signs including "A" frame sign, or a sign on a balloon, boat, float, vehicle, or other movable object designed primarily for the purpose of advertising.

FIGURE 3-11
PROHIBITED TYPES OF SIGNS



4. Removal of Dangerous Signs.

Notwithstanding any other provisions of this Chapter, the Director or any authorized County employee may, without notice, remove any sign which:

- A. Is a physical danger to the public health and safety;
- B. Is located within public lands or the public rights-of-way; or
- C. Obstructs traffic signals or otherwise constitutes a hazard to roadside traffic.

6. Underground Utilities. Utility lines should be undergrounded per Land Use Policy C-DES-6.

7. **Minimized exterior lighting.** Exterior lighting shall be the minimum consistent with safety and shall be low wattage, hooded, and downcast to prevent glare and shall limit visibility from public viewing places as much as possible (Land Use Policy C-DES-7).
8. **Protection of trees.** Structures and roads ~~should~~ shall be sited to avoid tree removal per Land Use Policy C-DES-8.
9. **Landscaping.** Required landscaping shall ~~predominantly~~ use native species of trees and plants and shall avoid using non-native, invasive trees and plants (Land Use Policy C-DES-9).
10. **Prohibition of Gated Communities.** The establishment of gated communities shall be prohibited (Land Use Policy C-DES-10).
11. **Minimization of fuel modification.** New development ~~should~~ shall be sited and designed to ~~minimize~~ avoid the need for fuel modification per Land Use Policy C-DES-11.

22.64.110 – Community Development

- A. **Community development standards.** Development, as defined in Article VIII, shall be consistent with all Community Design Policies of the LUP, including, but not limited to:
 1. **Location of new development.** New development ~~should~~ shall be located within, next to, or in close proximity to developed areas with adequate public services and where it will not have significant adverse impacts, either individually or cumulatively, on environmental and natural resources, including coastal resources (Land Use Policy C-CD-2).
 2. **Appropriate new development.** The type and intensity of new development, including land divisions, shall conform to the land use categories and density provisions of the LCP Land Use Maps. Allowable densities are stated as maximums and do not establish an entitlement to buildout potential, including because such maximums may need to be reduced to address site constraints, including coastal resource protection (Land Use Policy C-CD-3).
 3. **Non-conforming structures and uses.** Allow lawfully established non-conforming structures and uses to be maintained or continued in conformance with the requirements of Section 22.70.165 ~~Chapter 22.112~~.
 4. **Development standards for Tomales Bay shoreline.** New construction along the shoreline of Tomales Bay shall be limited in height to 15 feet above grade except as provided for per Land Use Policy C-CD-6.
 5. **Structures on public trust lands.** The construction of new residential dwellings shall not be permitted on public trust lands. Along the shoreline of Tomales Bay, existing structures on public trust lands may be rebuilt if ~~damaged or~~ destroyed by natural disaster per Land Use Policy C-CD-7.
 6. **Shoreline Structures and Piers.** The location of piers and other recreational or commercial shoreline structures shall be limited per Land Use Policy C-CD-8 and public access to such structures shall be required per Land Use Policy C-CD-9.

7. **Sub~~Division~~ of beachfront lots.** The ~~sub~~division of beachfront lots shall be restricted per Land Use Policy C-CD-10.
8. **Maintenance of village limit boundaries.** Village limit boundaries shall be set and maintained per Land Use Policies ~~iesy~~ C-CD-11 and C-CD-12.
9. **Chain store operations.** Discourage the establishment of chain store operations that are not consistent with the existing character and scale of the surrounding community (Land Use Policy C-CD-13).
10. **Limit conversion of overnight visitor-serving enterprises.** Visitor-serving uses ~~shall~~^{ould} remain available to the public on a space available basis; conversion of overnight accommodations into a more limited type of occupancy shall be discouraged (Land Use Policy C-CD-14).
- ~~11. Residential character in villages. Discourage the conversion of residential to commercial uses in coastal villages per Land Use Policy C-CD-15.~~
12. **Rural character of roadways.** Roadways, accessways and bridges shall reflect the character of coastal communities and shall be context and location specific. The primary ~~only~~ areas to be considered for sidewalks, curbs, and similar roadway improvements shall be within designated village limit boundaries ~~the downtown areas of Point Reyes Station, Stinson Beach, and Tomales~~ (Land Use Policy C-CD-16).
13. **Windbreaks.** Discourage new wind breaks along Highway One to preserve ~~coastal~~^{public} views. Consider the effects of proposed wind breaks at initial planting as well as at maturity on sunlight, ~~coastal~~^{public} views, and traffic safety related to visibility (Land Use Policy C-CD-19).
14. **Lighting for recreational use.** Prohibit night lighting for privately-owned recreational facilities per Land Use Policy C-CD-20.

22.64.120 – Energy

- A. **Energy efficiency standards.** Development, as defined in Article VIII, shall be consistent with all Energy Policies of the LUP, including, but not limited to:
 1. **Energy efficiency standards.** Complement coastal permit requirements with the application of Marin County Energy Efficiency Ordinance 3494 and Green Building Requirements to integrate energy efficiency and conservation, and renewable energy requirements into the development review and building permit process per Land Use Policy C-EN-1.
 2. **Renewable energy resource priority.** Utilize renewable energy resources and support appropriate renewable energy technologies per Land Use Policy C-EN-4.
 3. **Energy production facility impacts.** Energy production facilities shall be designed and constructed to minimize impacts to public health and coastal resources per Land Use Policy C-EN-5.

4. **Energy and Industrial Development.** Major energy or industrial development, both on and offshore, shall not be permitted per Land Use Policy C-EN-6.

22.64.130 – Housing

A. **Affordable housing standards.** Development, as defined in Article VIII, shall be consistent with all Housing Policies of the LUP, including, but not limited to:

1. **Protection of existing affordable housing.** Protect and provide affordable housing opportunities for very low, low, and moderate income households. The demolition of existing deed restricted very low, low, and moderate income housing is prohibited except as provided for per Land Use Policy C-HS-1.
2. **Density for affordable housing.** Allow the maximum range of density for deed-restricted housing developments that are affordable to extremely low, very low or low income households and that have access to adequate water and sewer services, provided that such density will not result in adverse coastal resource impacts and is consistent with all applicable LCP policies (Land Use Policy C-HS-2). Density bonuses for affordable housing consistent with Coastal Act Section 30604(f) and Government Code Section 65915~~mandated by state law shall~~ may be provided to the extent that such increases in density are consistent with the provisions of the LCP per Land Use Policy C- HS-9. The reviewing authority may approve a density greater than that allowed by the underlying land use and zone district designations for affordable residential projects only if the following criteria are met:
 - (a) The housing development is located in a residential or commercial/mixed-use land use and zone district designation; and
 - (b) The project is found to be in conformity with the Local Coastal Program (including but not limited to sensitive habitat, agriculture, public viewshed, public services, public recreational access and open space protections), with the exception of the density provisions.
3. **Affordable housing requirement.** Residential developments in the Coastal Zone consisting of 2 or more units shall be required to provide 20 percent of the total number of units to be affordable by households of very low or low income or a proportional “in-lieu” fee to increase affordable housing construction,~~consistent with the County’s inclusionary housing policy~~ (Land Use Policy C-HS-3
4. **Retention of small lot zoning.** Preserve small lot zoning (6,000 to 10,000 square feet) in Tomales, Point Reyes Station, and Olema for the purposes of providing housing opportunities at less expense than available in large-lot zones (Land Use Policy C-HS-4).
5. **Second units.** Enable the construction of well-designed second units in single-family and multifamily residential zoning districts consistent with Land Use Policy C-HS-5 and the standards below. With the exception of density, all second units must be found consistent with all lot coverage and other site development standards per the applicable residential zoning district where such standards are considered on a cumulative basis that include accounting for any existing buildings on site. Second Units shall conform to all of the zoning and development standards (lot coverage, height, setbacks, design, floor area ratio, etc.) of the residential zoning district which governs the lot. A Second Unit attached to the principal residence shall be subject to the height, setback, and coverage regulations of the

principal residence. A Second Unit detached from the principal dwelling shall be treated as a residential accessory structure in regard to height, and setbacks.

22.64.140 – Public Facilities and Services

A. Public facility and service standards. Development, as defined in Article VIII, shall be consistent with all Public Facilities and Services Policies of the LUP, including, but not limited to:

- 1. Adequate public services.** Adequate public services (that is, water supply, on-site sewage disposal or sewer systems, and transportation, including public transit as well as road access and capacity if appropriate) shall be available prior to approving new development per Land Use Policy C-PFS-1.

No permit for development may be approved unless it can be demonstrated, in writing and supported by substantial evidence, that it will be served with adequate water supplies and wastewater treatment facilities, consistent with the subsections below:

a. Development receiving water from a water system operator and/or wastewater treatment from a public/community sewer system shall only be approved if there is: (i) sufficient water and wastewater public works capacity within the system to serve the development given the outstanding commitments by the service provider; or, (ii) evidence that the entity providing the service can provide such service for the development. Such evidence may include a will-serve letter from the service provider.

b. The application for development receiving water from a well shall include a report prepared by a California Registered Geologist or Registered Civil Engineer which demonstrates, to the satisfaction of the Director, that:

- 1) The sustainable yield of the well meets the LCP-required sustained pumping rate (minimum of 1.5 gallons per minute) and must be equal to or exceed the project's estimated water demand.
- 2) The water quality meets safe drinking water standards.
- 3) The extraction will not adversely impact other wells located within 300 feet of the proposed well; adversely impact adjacent biological resources including streams, riparian habitats, and wetlands; and will not adversely impact water supply available for existing and continued agricultural production or for other priority land uses (i.e. coastal-dependent uses, public recreation, essential public services, and, within village limit boundaries only, visitor-serving uses and commercial recreation uses).

c. The application for development utilizing a private sewage disposal system shall only be approved if the disposal system:

- 1) Is approved by the Environmental Health Services Division of the Community Development Agency or other applicable authorities.
- 2) Complies with all applicable requirements for individual septic disposal systems by the Regional Water Quality Control Board.

d. Limited Public Service Capacity. Limited service capacity shall be defined as follows:

1) For water system operators, when projected demand for service based upon both outstanding water commitments to existing development and projected development exceeds available supply.

2) For public/community sewer systems, when projected demand for service based upon both outstanding sewer commitments to existing development and projected development exceeds available capacity.

In areas with limited water service capacity, when otherwise allowable, new development for a non-Coastal Act and LCP priority use (i.e., a use other than agricultural production, coastal-dependent uses, public recreation, essential public services, and, within village limit boundaries only, visitor-serving uses and commercial recreation uses) shall only be allowed if adequate capacity remains for the above-listed priority land uses. In such limited service capacity areas, in order to minimize the reduction in service for and reserve capacity to priority land uses, applications for non-priority uses shall be required to offset their anticipated water usage through the retrofit of existing water fixtures within the same service area of the water system operator or the public/community sewer system of the proposed development, whichever is applicable. All Coastal Permits authorizing development that results in increased water usage shall be conditioned to require applicants to provide to the Reviewing Authority for review and approval the following:

1) A list of all existing fixtures to be retrofitted and their present associated water flow (e.g. gallons/second);

2) A list of all proposed fixtures to be installed and their associated water flow; and;

3) The estimated annual water savings resulting from the proposed retrofit, showing all calculations and assumptions.

The County shall inspect the water fixtures prior to and following the retrofit to confirm that the retrofit has reduced existing water use in an amount equal or greater to the anticipated water use of the proposed project.

- 2. Expansion of public services.** Limit new or expanded roads, flood control projects, utility services, and other public service facilities, whether publicly owned or not, to the minimum necessary to adequately serve planned development per Land Use Policy C-PFS-2.

a. Permit requirements: Every new public works facility or capacity expansion shall be required to go through the Coastal Permit review process. Any Coastal Permit for development of public works facilities shall require that the development be phased if necessary in order to ensure that permitted public works capacity is limited to serving needs generated by development that is consistent with the Land Use Plan policies. Expansion of public works facilities, including but not limited to water supply and transmission, sewage treatment and transmission, and the regional transportation system, shall only be permitted after considering the availability of other public works facilities, and establishing whether capacity increases would overburden the existing and probable future capacity of those other public works facilities.

b. Timing for New or Expanded Public Works Facilities. The amount of new or expanded capacity shall be determined by: (i) considering the availability of related public works to establish whether capacity increases would overburden the existing and probable future

capacity of other public works; (ii) considering the availability of funding; and (iii) considering all applicable policies of the LUP.

3. **Formation of special districts.** Ensure that special districts are formed or expanded only where assessment for, and provision of, the service would not induce new development inconsistent with the policies of the LCP (Land Use Policy C-PFS-3).
4. **High-priority visitor-serving and Coastal Act priority land uses.** In acting on any coastal permit for the extension or enlargement of community water or community sewage treatment facilities, ~~determine that adequate treatment capacity is~~ shall be made available and reserved in the system to serve VCR- and RCR-zoned property, ~~and other visitor-serving uses, and other Coastal Act priority land uses (i.e., coastal-dependent uses, agriculture, essential public services, public recreation, etc.)~~ (Land Use Policy C-PFS-4).
5. **Community sewer systems.** New development within a village limit boundary shall connect to a public sewer system within 400 feet of the parcel, unless such connection is prohibited, physically impossible, or otherwise infeasible (Land Use Policy C-PFS-5). Any determination that connection to the public sewer system is infeasible shall be made in writing.
6. **Sewage disposal systems and protection of water quality.** Require new and expanded sewage disposal systems to be designed, constructed, and maintained so as to protect the biological productivity and quality of coastal streams, wetlands, and other waters (Land Use Policy C-PFS-6).
7. **Adequately sized sewage disposal systems.** New and expanded sewage disposal systems shall be sized adequately to meet the needs of ~~proposed development that can be approved consistent with the certified LCP, including any changes to the intensity in use of an existing structure~~ (Land Use Policy C-PFS-7). Any new or expanded sewage treatment and distribution capacity to serve new development shall only be permitted when existing capacity has been consumed or will be consumed within the time period required to construct additional sewage treatment capacity, and only when capacity increases would not overburden the existing and probable future capacity of other public works facilities.
8. **Sewage disposal system requirements for new lots.** All sewage disposal systems on newly created lots shall comply in all respects, without variance, with applicable County and state regulations (Land Use Policy C-PFS-8).
9. **Preference for on-site individual sewage disposal systems.** An individual sewage disposal system shall be located on the same parcel as the building or buildings it serves per Land Use Policy C-PFS-9.
10. **Adequate on-site sewage disposal systems for existing development.** Ensure that existing on-site sewage disposal systems function properly by complying with all rules and regulations of the Regional Water Quality Control Board, including any requirements adopted pursuant to AB885, so long as such requirements are consistent with the LCP. Where repairs to existing systems are necessary, corrective actions shall be taken per Land Use Policy C-PFS-10.
11. **Alternative on-site sewage disposal systems.** Alternative on-site sewage disposal systems shall be considered and approved per Land Use Policy C-PFS-11.

12. **Limited use of off-site septic systems.** Allow construction of off-site individual or community septic systems only in compliance with Land Use Policy C-PFS-12.
13. **New water sources serving five or more parcels.** Applicants for new water wells or other sources serving 5 or more parcels shall demonstrate that no adverse impacts on coastal resources shall result per Land Use Policy C-PFS-13.
14. **Adequacy of water supply within water system service areas.** Development of individual domestic water wells or other individual water sources to serve new development in areas served by public or private water systems is prohibited except in limited cases per Land Use Policy C-PFS-14.
15. **Development of water sources including wells, streams and springs.** Coastal Permit approval is required for wells and borings unless otherwise exempt or categorically excluded per Land Use Policy C-PFS-15.
16. **Standards for water supply wells and other water sources.** Water supply wells and other water sources shall comply with the standards contained in the LCP, including Land Use Policy C-PFS-16.
17. **Conservation of water.** To minimize the generation of wastewater and to encourage the conservation of coastal water resources, the use of water saving devices, including as prescribed by the local water provider, shall be required in all new development (Land Use Policy C-PFS-17).
18. **Desalination facilities.** Due to the Coastal Zone's unique natural resources and recreational opportunities of nationwide significance, development of desalination facilities shall be prohibited, consistent with the limitations of Public Resources Code sections 30260, 30262 and 30515, with the exception of treatment of existing surface or ground water supplies for purposes of maintaining water quality (Land Use Policy C-PFS-18).
19. **Telecommunications facilities.** Ensure through siting, co-location, "stealth" design, and other measures that telecommunications facilities are designed and constructed to protect coastal resources, including significant public views, consistent with all applicable LCP policies and development standards, including those specified in 22.32.165, ~~to minimize impacts on coastal views, community character, natural resources, wildlife, and public safety~~ (Land Use Policy C-PFS-19).

22.64.150 – Transportation

- A. **Transportation standards.** Development, as defined in Article VIII, shall be consistent with all Transportation Policies of the LUP, including, but not limited to:
 1. **Roads in the Coastal Zone.** The motorized vehicular capacity of roads in the Coastal Zone shall be limited per Land Use Policy C-TR-1.
 2. **Scenic quality of Highway One.** The scenic quality of Highway One shall be maintained consistent with LCP provisions, including per Land Use Policy C-TR-2.
 3. **New bicycle and pedestrian facilities.** New development shall be encouraged or required to provide new bicycle and pedestrian facilities per Land Use Policy C-TR-6. Where

appropriate, the installation of bike racks, lockers and other bike storage facilities shall be encouraged per Land Use Policy C-TR-7.

(a) **Bikeway Design Guidelines.** For bikeway planning and design requirements, refer to the Marin County Unincorporated Area Bicycle and Pedestrian Master Plan Supplemental Bikeway Design Guidelines, where otherwise LCP consistent.

4. **Expansion of the Countywide Trail System.** Acquire additional trails to complete the proposed countywide trail system, providing access to or between public lands and enhancing public trail use opportunities for all user groups, including multi-use trails, as appropriate (Land Use Policy C-TR-8).
5. **Complete Streets.** Consistent with the local implementation of the State of California's Complete Streets policy, at the outset of all projects, other than routine maintenance, an analysis shall be performed to ensure the inclusion of all necessary, appropriate and reasonable multi-modal facilities and improvements, including transit, bike and pedestrian access, disabled access, and traffic safety. (See also Department of Public Works Directive 2006-1, dated January 23, 2006)
6. **Roads, Driveways, Parking, Sidewalks.** Roads, driveways, parking, and sidewalks shall be provided in a manner that best protects coastal resources and is consistent with all applicable LCP provisions, including by meeting applicable agricultural, biological resources, environmental hazards, visual resources, transportation, and public facilities and services policies. Adequate parking and transportation facilities (including bicycle and pedestrian facilities) shall be provided. New development shall not adversely impact existing public parking facilities nor the ability to access existing development or existing coastal resource areas.

22.64.160 – Historical and Archaeological Resources

A. Application requirements.

1. **Archaeological Resource Survey.** Coastal permit applications for development proposed within an area of known or likely archaeological or paleontological significance shall include a field survey by a state-qualified archaeologist recommended by the Sacred Sites Protection Committee of the Federated Indians of Graton Rancheria or by a qualified paleontologist which determines the extent of archaeological or paleontological resources on the site and evaluates the project's potential impacts to those resources. Where adverse impacts are possible, the report shall identify reasonable mitigation measures, including avoidance and permanent protection as open space, if feasible. (Land Use Plan Policy C-HAR-2)

B. Historical and Archaeological Resource standards. Development, as defined in Article VIII, shall be consistent with all Historical and Archaeological Resources Policies of the LUP, including, but not limited to:

1. **Implementation of mitigation measures.** Implement ~~as~~ appropriate mitigation measures, including avoidance and permanent protection as open space, if feasible, as recommended in the field survey prepared per Land Use Plan Policy C-HAR-2.
2. **Monitoring of construction activities on archaeological sites.** New development on sites identified as archaeologically sensitive shall be monitored per Land Use Plan Policy C-HAR-3.

3. **Structures of special character and visitor appeal.** Preserve and restore structures with special character and visitor appeal in coastal communities (Land Use Plan Policy C-HAR-4).
4. **Development affecting structures and areas of special character and visitor appeal.** Coastal Permit applications for projects that involve pre-1930 buildings or are located in areas designated as having special character and visitor appeal, including historic areas, shall be evaluated per Land Use Plan Policy C-HAR-5.
5. **Alterations and additions to structures of special character and visitor appeal.** Applications for substantial alterations or additions to any structure built prior to 1930 shall be evaluated per Land Use Plan Policy C-HAR-6.
6. **Proposed demolition of structures of special character and visitor appeal.** Proposed demolition of any structure built prior to 1930 shall be evaluated and processed per Land Use Plan Policy C-HAR-7.
7. **Villages with special character and visitor appeal.** New construction in mapped areas having special character and visitor appeal, including historic areas, shall comply with Land Use Plan Policy C-HAR-8.

22.64.170 – Parks, Recreation, and Visitor-Serving Uses

A. Parks and Recreation and Visitor-Serving Use standards. Development, as defined in Article VIII, shall be consistent with all Parks, Recreation and Visitor Serving Use Policies of the LUP, including, but not limited to:

1. **Coastal recreation opportunities.** The development of visitor-serving and commercial recreation facilities shall have priority over residential or general commercial development per Land Use Plan Policy C-PK-1.
2. **Compatible commercial recreation facilities.** New visitor-serving and commercial development shall be sited and designed per Land Use Plan Policy C-PK-2.
3. **Mixed uses in coastal village commercial/residential zones.** A mixture of residential and commercial uses shall be permitted in the C-VCR zoning district per Land Use Plan Policy C-PK-3.
4. **Balance of visitor-serving and local-serving facilities.** Support a level of local-serving facilities such that an adequate infrastructure can be maintained to ensure the health, vitality, and survival of the visitor-serving segment of the coastal economy (Land Use Plan Policy C-PK-4).
5. **Small-scale tourist facilities.** Small-scale tourist-oriented businesses, rather than large tourist facilities, shall be permitted per Land Use Plan Policy C-PK-5.
6. **Bed and breakfast inns.** Support bed and breakfast facilities in the Coastal Zone as a means of providing visitor accommodations per Land Use Plan Policy C-PK-6.
7. **Lower-cost recreational facilities.** Lower cost visitor and recreational facilities shall be protected and encouraged per Land Use Plan Policy C-PK-7.

8. **Appropriate public recreation opportunities.** Public recreational development shall be undertaken in a manner which preserves the unique qualities of Marin's coast per Land Use Plan Policy C-PK-8.
9. **Appropriate uses of federal parks.** Uses and facilities within federal parklands should comply with Land Use Plan Policy C-PK-10.
10. **State parks.** Support management of Tomales Bay State Park and Mount Tamalpais State Park consistent with the adopted General Plan per Land Use Plan Policy C-PK-11.
11. **County parks in the Coastal Zone.** Continue to operate existing Marin County park facilities in the Coastal Zone per Land Use Plan Policy C-PK-12 and support future acquisition of park areas per Land Use Plan Policy C-PK-13.
12. **California Coastal Trail.** Support completion of the California Coastal Trail through Marin County per Land Use Plan Policy C-PK-14.
13. **Commercial fishing and recreational boating.** Support and protect commercial fishing and recreational boating on Tomales Bay per Land Use Plan Policy C-PK-15.
14. **Standards for new boating facilities.** The development of new boating facilities on Tomales Bay shall comply with the standards contained in Land Use Plan Policy C-PK-16.

22.64.180 – Public Coastal Access

A. Application requirements.

1. **Site Plan.** Coastal permit applications for development on property located between the shoreline and the first public road shall include a site plan showing the location of the property and proposed development in relation to the shoreline, tidelands, submerged lands or public trust lands. All easements and/or other similar restrictions associated with the property shall be mapped, and the associated legal document provided. Any evidence of historic public use should also be indicated.

B. Public Coastal Access standards. Development, as defined in Article VIII, shall be consistent with all Public Coastal Access Policies of the LUP, including, but not limited to:

1. **Public coastal access in new developments.** New development located between the shoreline and the first public road shall be evaluated for impacts on public access to the coast per Land Use Plan Policy C-PA-2. Where a ~~nexus exists~~ requirement to dedicate public access is related in nature and extent to the impacts of the proposed development, the dedication of a lateral, vertical and/or bluff top accessway shall be required per Land Use Plan Policy C-PA-9, unless Land Use Plan Policy C-PA-3 provides an exemption. A finding that an accessway can be located ten feet or more from an existing single-family residence or be separated by a landscape buffer or fencing if necessary shall be considered to provide adequately for the privacy of existing homes. All coastal development permits subject to conditions of approval pertaining to public access and open space or conservation easements shall be subject to the procedures specified in Section 13574 of the Coastal Commission's Administrative Regulations.

2. **Direct dedication of public coastal access.** If feasible, direct dedication of an easement or fee title interest for a required coastal accessway is preferred per Land Use Plan Policy C-PA-4.
3. **Acquisition of new public coastal accessways.** The acquisition of additional public coastal accessways shall be pursued through available means per Land Use Plan Policy C-PA-6.
4. **Protection of prescriptive rights.** New development shall be evaluated to ensure that it does not interfere with the public's right of access to the sea where acquired through historic use per Land Use Plan Policy C-PA-7.
5. **Bolinas Mesa.** Public use of the two access trails across Bolinas Mesa to the RCA beach and of the RCA beach area itself shall be protected per Land Use Plan Policy C-PA-8.
6. **Impacts of public coastal accessways on their surroundings.** Coastal accessways and their support facilities shall be sited and designed to avoid impacts to environmental resources, agriculture, and surrounding neighbors per Land Use Plan Policy C-PA-10 and C-PA-11.
7. **Public coastal accessway maintenance and liability agreements.** Maintenance and liability responsibilities for coastal accessways shall conform to Land Use Plan Policy C-PA-12.
8. **Accessibility of public coastal accessways.** New public coastal accessways shall comply with California Title 24 and be accessible to persons with disabilities to the maximum extent feasible (Land Use Plan Policy C-PA-13).
9. **Impacts of new development on public coastal accessways.** New development shall be sited and designed to avoid impacts to users of coastal access and recreation areas per Land Use Plan Policy C-PA-15.
10. **Parking, signage, and support facilities at public coastal accessways.** Where appropriate and feasible, parking, signage, and support facilities shall ~~should~~ be provided in conjunction with public coastal accessways per Land Use Policy C-PA-18 and C-PA-19. Proposals to restrict public parking near beach access points or parklands ~~should~~ shall be evaluated per Land Use Plan Policy C-PA-20.
11. **Shoreline protection structures near public coastal accessways.** The construction of shoreline protection structures ~~should~~ shall maintain existing shoreline access per Land Use Plan Policy C-PA-21.

Chapter 22.65 – Coastal Zone Planned District Development Standards

Sections:

- 22.65.010 – Purpose of Chapter
- 22.65.020 – Applicability of Planned District Standards
- 22.65.030 – Planned District General Development Standards
- 22.65.040 – C-APZ Zoning District Standards
- 22.65.050 – C-ARP Zoning District Standards
- 22.65.060 – C-RSP Zoning District Standards
- 22.65.070 – C-RSPS Zoning District Standards (Seadrift Subdivision)

22.65.010 – Purpose of Chapter

- A. This ~~e~~Chapter provides detailed site planning, development, and land use standards for the planned zoning districts within the Coastal Zone. These districts include C-APZ, C-ARP, C-RSP, C-RSPS, C-RMP, C-CP, C-RMPC, and C-RCR.
- B. These standards are intended to ensure that proposed development is designed and constructed in a manner compatible with, and sensitive to, the important environmental characteristics and visual features of lands designated within coastal planned zoning districts.

22.65.020 – Applicability of Planned District Standards

- A. **Compliance with standards required.** Proposed development, as defined in Article VIII, ~~and new land uses~~ shall be designed and constructed in conformity with:
 - 1. All standards and requirements established through the approval of a Coastal Permit;
 - 2. Any provisions of this Chapter applicable to a specific planned coastal zoning district;
 - 3. The provisions of Chapter 22.64 (Coastal Zone Development and Resource Management Standards); and
 - 4. ~~Any~~All provisions of Sections 22.62.060 (Coastal Agricultural and Resource Related Districts), 22.62.070 (Coastal Residential Districts), or 22.62.080 (Coastal Commercial and Mixed-Use Districts).
 - 5. All applicable provisions of the Implementation Plan, as defined in 22.60.010 and Article VIII.

22.65.030 – Planned District General Development Standards

A. Access:

- 1. **Roads.** Road designs shall minimize road length and maximize the amount of undivided agricultural land, except that longer road extensions may be necessary in highly visible areas in order to avoid or minimize other impacts.

Roads shall be ~~generally~~ designed with not more than 18 feet pavement width, ~~depending on except when~~ safety requirements require otherwise. ~~If otherwise LCP consistent, A~~ a minimum of 16 feet may be permitted in certain very low use areas, as provided in the improvement standards established in compliance with Sections 24.04.020 et seq. of the County Code (Roads).

2. **Driveways.** Driveways shall be designed in compliance with Sections 24.04.240 et seq. of the County Code (Driveways), in addition to and independent of Coastal Permit requirements. Driveway length shall be minimized, consistent with the clustering requirements of Subsection D.1 below (Building Location - Clustering Requirement). Applicants are encouraged, to the extent permitted by applicable laws, to utilize pervious surface materials (e.g., turfblock, pavers, porous asphalt and gravel) for new or modified driveways to reduce the area of impervious surface and the extent of storm water runoff.

- B. Fire protection.** In areas without water systems, on-site water storage capacity may be required for each single-family dwelling, subject to the requirements of the County Fire Department or local Fire Protection District, as applicable. Where feasible, the design of planned or cluster developments should include provisions for common water storage facilities and distribution systems. Maintenance of these water storage facilities and distribution systems should be performed according to a plan prepared by the applicant and approved by the County Fire Department or local Fire Protection District, as applicable.

C. Building design:

1. Height limits for structures:

- (a) The height limit is 25 feet for primary structures and 15 feet for accessory structures. (See also height limit provisions for the Seadrift Subdivision in Section 22.65.070.D and the shoreline of Tomales Bay in Sections 22.66.080.D and 22.66.090.B).
- (b) The floor level of the first floor shall not exceed 10 feet above natural grade at the lowest corner, unless otherwise required by FEMA standards.
- (c) Structures located within the ridgeline areas pursuant to Subsection D.2 below shall be limited to a maximum height of 18 feet.
- ~~(d) Where allowed, agricultural structures in an agricultural zone sited in compliance with the requirements of Subsection D.2 below may exceed the above height limits if determined to have no significant visual or resource impacts.~~
- ~~(e) These requirements may be waived by the Director in unusual circumstances resulting from an irregular site characteristic (e.g., location, lot shape/size, topography) where the waiver will not result in a structure that will impinge significantly on sun and light exposure, views, vistas, and privacy of adjacent properties and rights of way.~~

2. **Materials and colors.** Building materials and colors should ~~emphasize incorporate~~ emphasize incorporate earth tones and natural materials, and be chosen to blend into the natural and built environment unobtrusively, to the greatest extent possible. Traditional colors for agricultural structures (natural wood, red, whitewash, etc.) are appropriate for these structures in agricultural zoning districts.

D. Building location:

1. **Clustering requirement.** Structures shall be clustered in a geologically stable, accessible location on the site where their visual prominence is minimized, consistent with ~~needs for privacy~~ the maximum protection of agricultural lands and other coastal resources. Clustering is especially important on open grassy hillsides; however, a greater scattering of buildings ~~may be preferred~~ on wooded hillsides may be approved-preferable, if consistent with all other applicable provisions of the LCP, ~~to save trees~~. ~~The prominence of~~ eConstruction shall be minimized by placing buildings so that they will be screened by existing vegetation, rock outcroppings or depressions in topography.

Proposed development shall be located close to existing roads, and shall not require new road construction or improvements resulting in significant impacts on agriculture, significant vegetation, significant scenic resources, or natural topography of the site. Proposed development shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations.

2. **Development near ridgelines.** No construction shall occur on top of, or within 300 feet horizontally, or within 100 feet vertically, of visually prominent ridgelines, whichever is more restrictive, unless no other suitable locations are available on the site or the lot is located substantially within the ridgeline area as defined herein. If structures must be placed within this restricted area because of site constraints or because siting the development outside of the ridgeline area will result in greater visual or environmental impacts, they shall be in locations that are the least visible from public viewing areas.
 3. **Energy conservation.** Solar access shall be considered in the location, design, height and setbacks of all structures. Generally, structures should be oriented in a north/south fashion with the majority of glazing on the south wall or walls of the buildings.
 4. **Noise mitigation.** Noise impacts on residents in nearby areas shall be minimized through the placement of buildings, recreation areas, roads and landscaping.
- E. **Land Division of Agricultural Lands.** Permissible ~~Land~~ divisions affecting agricultural lands shall be designed consistent with the requirements of this Article and the LCP. In considering divisions of agricultural lands in the Coastal Zone, the County may approve fewer parcels than the maximum number of parcels allowed by both the Development Code and the LCP, based on site characteristics such as topography, soil, water availability, environmental constraints and the capacity to sustain viable agricultural operations, and coastal resource protection.
- F. **Landscaping.** Introduced landscaping shall be designed to minimally disturb natural areas, and shall be compatible with the native plant setting. Landscaping plans shall be prepared with consideration for fire protection, water quality protection, solar access, the use of native and drought tolerant species, and minimal water use. Planting should not block public views or scenic views from adjacent properties or disturb wildlife trails.

G. Open space areas:

1. **Dedication required.** Land to be preserved as open space may be dedicated by fee title to the County or an agency or organization designated by the County before issuance of any construction permit or may remain in private ownership with appropriate scenic and/or open space easements or other encumbrances acceptable to the County, and the County may require reasonable public access across lands remaining in private ownership, consistent with federal and state law.

2. **Maintenance.** The County or other designated agency or organization ~~wi~~shall maintain all open space lands accepted in fee title, as well as public access and trail easements across private property. Where open space lands remain in private ownership with scenic easements, these lands shall be maintained in compliance with the adopted policies of the Marin County Open Space District and may require the creation of a homeowners' association or other organization to maintain private open space lands where appropriate.
3. **Open space uses.** Uses in open space areas shall be in compliance with policies of the Marin County Open Space District, in addition to complying with the LCP. ~~Generally, uses and shall have no or minimal significant impact on the natural environment and coastal resources.~~ Pedestrian and equestrian access shall be provided where possible and reasonable and LCP consistent. ~~The intent is to serve the people in adjacent communities, but not attract large numbers of visitors from other areas.~~

H. Site preparation:

1. **Grading.** Grading is permitted ~~shall occur~~ in compliance with Chapter 22.64.080(C) ~~23.08 of the County Code (Excavating, Grading and Filling), but and shall be held to a minimizedum.~~ Every reasonable effort shall be made to retain the natural features of the land: skylines and ridgetops, rolling land forms, knolls, native vegetation, trees, rock outcroppings, and watercourses. Where grading is required, it shall not create flat planes and sharp angles of intersection with natural terrain. Slopes shall be rounded and contoured to blend with existing topography.
 2. **Drainage.** The areas adjacent to creeks shall be kept as much as possible in their natural state. All construction shall ensure drainage into the natural watershed in a manner that will avoid significant erosion or damage to creeks and adjacent properties. Impervious surfaces shall be minimized. At ~~major~~ creek crossings, bridges ~~should~~ shall be utilized instead of culverts consistent with 22.64.050.B.11.
 3. **Trees and vegetation.** Every effort shall be made to avoid tree removal, and changes or construction that would cause the death of existing trees, rare plant communities, and wildlife habitats.
 4. **Fire hazards.** Development shall be permitted in areas subject to wildfire threat only where the review authority determines there are good access roads, and adequate water supply, and vegetation management plans are required and adopted.
 5. **Geologic hazards.** Construction shall not be permitted on identified seismic or geologic hazards, including slides, natural springs, identified fault zones, or on bay mud, without approval from the Department of Public Works, based on acceptable soils and geologic reports. Development subject to coastal hazards shall be sited and designed to avoid such hazards consistent with 22.64.060.
 6. **Watershed areas.** All projects within water district watershed areas shall be referred to the appropriate district for review and comment. Damaging impoundments of water shall be avoided.
- I. **Utilities.** In ridge land areas, street lights shall be of low level intensity and low in profile. In all areas, power and telephone lines shall be underground where feasible. Any determination that undergrounding of utilities is not feasible shall be made in writing.

22.65.040 – C-APZ Zoning District Standards

- A. Purpose.** This Section provides additional development standards for the C-APZ zoning district ~~that are designed~~ to preserve productive lands for agricultural use, and ensure that development is accessory and incidental to, in support of, ~~and compatible with,~~ and necessary for agricultural production uses. “Necessary for agricultural production” means that the proposed development is needed to sustain an efficient and productive agricultural operation and to ensure continued agricultural viability.
- B. Applicability.** The requirements of this Section apply to proposed development in addition to the standards established by Section 22.65.030 (Planned District General Development Standards) and Chapter 22.64 (Coastal Zone Development and Resource Management Standards), and all other applicable provisions of this Development Code.
- C. Development standards.** Development permits in the C-APZ district shall ~~also be~~ subject to the following standards and requirements in addition to section 22.65.030:

1. Standards for ~~agricultural uses~~ all development in the C-APZ:

- a. Permitted development shall protect and maintain renewed and continued agricultural production use, and ~~contribute to~~ agricultural viability on-site and on adjacent agricultural lands. Development ~~of agricultural facilities~~ shall be sited to avoid ~~agricultural land suitable for agricultural production (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~~ such land is necessary, prime agricultural land shall not be utilized for structural development ~~converted~~ if it is possible to utilize other lands suitable for agricultural use. In addition, as little agricultural land as possible shall be used for structural development ~~converted~~.
- b. Development shall be permitted only where adequate water supply, sewage disposal, road access and capacity and other public services are available to support the proposed development after provision has been made for existing and continued agricultural ~~operations—production.~~ Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats, have significant effects on groundwater resources, or significantly reduce freshwater inflows to water bodies including Tomales Bay, either individually or cumulatively.
- c. Permitted development shall have no significant adverse impacts on environmental quality or natural habitats, and shall meet all other applicable policies, consistent with the LCP.
- d. In order to retain the maximum amount of land in agricultural production or available for future agricultural ~~uses—production,~~ all infrastructure and structural development (e.g., agricultural accessory structures, other agricultural uses, and roads) ~~farmhouses, intergenerational homes, and agricultural homestay facilities~~ shall be placed within a clustered development area placed in one or more groups along with any non-agricultural development on ~~of~~ a total of no more than five percent of the gross acreage of the ~~parcel—farm~~ farm (as that term is defined in subsection (e)(3), below), to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space.

All applications for development within the C-APZ shall include a map of the development area. The development area shall include all existing structural development and shall total no more than five percent of the farm's total acreage, subject to the allowed exceptions specified below. All new structural development shall be clustered within the identified development area, except when:

- (1) Placing development outside such development area is necessary for agricultural operations (e.g., when a more remote barn is required in a different part of the property to allow for efficient agricultural operations); or
- (2) When placing development within such development area would be inconsistent with applicable LCP standards (e.g., when such placement would be within a required stream setback area). In this case, new development shall be placed as close as possible to the existing clustered development area in a way that also meets applicable LCP standards.

Development shall be located close to existing roads, and shall not require new road construction or improvements resulting in significant impacts on agriculture, natural topography, major vegetation, or significant natural visual qualities of the site. Development shall be sited to minimize impacts on coastal resources and adjacent agricultural operations and shall be designed and sited to avoid hazardous areas.

e. Agricultural dwelling units shall also meet the following standards, below, including those specified in Section 22.65.040(C)(4):

1. The agricultural dwelling unit must be owned by a farmer or operator actively and directly engaged in agricultural use on the property. All coastal permit applications for agricultural dwelling units must identify that the owner is actively and directly engaged in agricultural use of the property. "Actively and directly engaged" means making day-to-day management decisions for the agricultural operation and being directly engaged in the production of agricultural commodities for commercial purposes on the property. "Agricultural use" shall be defined as: breeding, raising, pasturing, and grazing livestock of every nature and description for the production of food and fiber; breeding and raising bees, fish, poultry, and other fowl; planting, raising, harvesting, and producing agricultural, aquacultural, horticultural, and forestry crops and products of every nature and description; and the processing, storage, and sale, including direct retail sale to the public, of crops and products harvested and produced principally on the farm; further provided, however, that all agricultural uses and activities are consistent with applicable laws, including those of the Local Coastal Program.
2. No more than a combined total of 7,000 square feet may be used for agricultural dwellings, whether in a single farmhouse or in a combination of a farmhouse and one or two intergenerational homes (agricultural worker housing, up to 540 square feet of garage space in the farmhouse, and up to 500 square feet of office space in the farmhouse used in connection with the agricultural operation shall be excluded from the 7,000 square foot limitation).
3. An application for a farmhouse or intergenerational home shall identify the farm, which shall consist of all parcels owned (in either total or partial fee ownership) by the same owner of the property upon which the proposed farmhouse or intergenerational home is located. A farm shall consist of no

- less than all contiguous properties under common ownership. Non-contiguous property may constitute a separate farm when determined to be a wholly independent farming operation, as evidenced by such factors as independent types of bona fide commercial agricultural production, the history of such agricultural production on the property, and the long-term capital investment in independent agricultural operations and infrastructure (such as fencing, processing facilities, marketing mechanisms, and agricultural worker housing). The application shall identify all existing agricultural dwellings on the identified parcels that constitute the farm, and shall demonstrate that the proposed farmhouse or intergenerational house is located on a legal lot.
4. Only one farmhouse or a combination of one farmhouse and up to two intergenerational homes with the combined total of 7,000 square feet (plus the allowed 540 square feet of garage space and 500 square feet of office space in the farmhouse used in connection with the agricultural operation) is allowed for the farm identified in subsection (3) above, regardless of the number of legal lots the farm owner or operator owns that comprise the farm.
 5. Intergenerational homes shall be placed on the same legal lot of record as the legally permitted farmhouse. No allowable farmhouse or intergenerational home may be divided from the rest of the legal lot. As a condition of permit approval for a farmhouse and/or intergenerational home, future land division of the legal lot containing the farmhouse and/or intergenerational home(s) is prohibited except that lease of the rest of the legal lot at a level of agricultural use that will sustain the agricultural capacity of the site is not prohibited (see restrictive covenant requirements specified in Sections 22.32.024 and 22.32.025).
 6. A density of 60 acres per unit shall be required for each farmhouse and intergenerational house (i.e., a parcel must be at least 60 acres for a farmhouse, 120 acres for a farmhouse and intergenerational house, and at least 180 acres for a farmhouse and two intergenerational homes).
 7. No more than 27 intergenerational homes may be allowed in the County's coastal zone.
 8. Up to and including 36 beds or 12 units of agricultural worker housing is allowed per legal lot. Agricultural worker housing above 36 beds or 12 units per legal lot shall be subject to the density limits of one unit per 60 acres and shall include a worker housing needs assessment and plan, including evaluation of other available worker housing in the area. The amount of additional worker housing approved shall be commensurate with the demonstrated need. Agricultural worker housing requires recording a restrictive covenant running with the land for the benefit of the County ensuring that the agricultural worker housing will continuously be maintained as such, or, if no longer needed, for non-dwelling agricultural production related uses.
 9. In addition to the required standards specified in subsections 1 through 8 above, principally permitted agricultural dwelling units must meet the following standards:
 - a. Only one farmhouse or a combination of one farmhouse and one intergenerational home with the combined total of 7,000 square feet (plus the allowed 540 square feet of garage space and 500 square feet of office space in the farmhouse used in connection with the agricultural operation) and on a parcel of at least 120 acres is allowed for the farm identified in subsection (3) above as a principally

permitted use, regardless of the number of legal lots the farm owner or operator owns that comprise the farm.

- b. Agricultural worker housing must provide accommodations consisting of no more than 36 beds in group living quarters or 12 units or spaces per legal lot for agricultural workers and their households, and shall not be included in the calculation of density.
- c. The agricultural dwelling unit is not placed on land designated as prime agricultural land.
- d. The agricultural dwelling unit is placed within the mapped clustered development area required in subsection (d) and does not require any new road construction. An intergenerational home must be placed immediately adjacent (i.e., within 100 feet) to an existing farmhouse within the mapped development area and not require any new road construction.
- e. The agricultural dwelling unit does not require any Coastal Zone Variance.

f. Other Agricultural Uses: Agricultural Processing Uses and Agricultural Retail Sales Facilities/Farm Stands shall be classified as principally permitted agricultural uses only when also consistent with the following standards:

Agricultural Processing Uses:

- 1. The building(s) or structure(s) used for processing activities do not exceed an aggregate floor area of 5,000 square feet;
- 2. With the exception of incidental additives or ingredients, agricultural products to be processed are produced within the farmshed, defined as the same farm as the proposed processing facility or on other agricultural properties located in Marin County or Sonoma County.
- 3. The operator of the processing facility is directly involved in the agricultural production on the property on which the processing facility is located;
- 4. Sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the processing facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.

Agricultural Retail Sales Facility/Farm Stand:

- 5. The building(s) or structure(s) or outdoor areas used for retail sales do not exceed an aggregate floor area of 500 square feet;
- 6. Agricultural products to be sold are produced within the farmshed, defined as the same farm as the proposed sales facility, or on other agricultural properties located in Marin County or Sonoma County;
- 7. The operator of the sales facility is directly involved in the agricultural production on the property on which the sales facility is located;
- 8. Sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the sales facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.

Both Uses:

- 9. In addition to the required standards specified above:
 - a. The processing facility and the building(s) or structure(s) or outdoor areas used for retail sales are not placed on land designated as prime agricultural land.

- b. The processing facility and the building(s) or structure(s) or outdoor areas used for retail sales are placed within the mapped clustered development area required in subsection (d) and do not require any new road construction.
- c. The processing facility and the building(s) or structure(s) or outdoor areas used for retail sales do not require a Coastal Zone Variance.

2. Standards for Non-Agricultural Non-Principally Permitted Uses and Development

In addition to the standards of Section 1, above, all of the following development standards apply to non-principally permitted uses and development. Non-agricultural uses, including division of agricultural lands, or construction of two or more dwelling units (excluding agricultural worker or intergenerational housing) shall meet the requirements of Section 22.65.040C above and the following additional requirements:

- a. Non-principally permitted uses and development shall only be allowed when such uses will serve to maintain and enhance agricultural production.
- b. The creation of a homeowners' or other organization and/or the submission of an Agricultural Production and Stewardship Plan (APSP) may be required to provide for the proper utilization of agricultural lands, including their availability on a lease basis or for the maintenance of the community's roads, septic or water systems.

3. Standards for Non-Agricultural Conditional Uses and Development

In addition to the standards of Sections 1 and 2 above, all of the following development standards apply to non-agricultural conditional uses and development.

- a. **Conservation easements.** Consistent with state and federal laws, the approval of non-agricultural conditional development, ~~uses, a sub including land divisions, or construction of two or more dwelling units, excluding agricultural worker and intergenerational housing~~ shall include measures for the long-term preservation of lands proposed or required to remain undeveloped. Preservation shall be accomplished by permanent conservation easements or other encumbrances acceptable to the County. Only agricultural uses shall be allowed under these encumbrances. In addition, the County shall require the execution of a covenant prohibiting further subdivision of parcels created in compliance with this Section and Article VI (Subdivisions), so that each is retained as a single unit.
- b. **Agricultural Production and Stewardship Plans.** The creation of a homeowners' association or other organization and/or the submission of an Agricultural Production and Stewardship Plan (APSP) may be required to provide for the proper use and management of agricultural lands, including and their availability for lease, and/or for the maintenance of community roads or mutual water systems. Submission of an APSP shall be required for approval of all land division and shall be required for all other non-agricultural development of C-APZ lands, except as provided for in (2) below. ~~The Director may waive the requirement for an APSP for a project involving an existing commercial agricultural production operation or an existing commercial agricultural property.~~

- (1) The purpose of an Agricultural Production and Stewardship Plan prepared and submitted for land division or ~~for residential or~~ other non-agricultural development of C-APZ lands is to ensure that long-term agricultural productivity will occur and will substantially contribute to Marin's agricultural industry. Such a plan shall clearly identify and describe existing and planned agricultural uses for the

property, explain in detail their implementation, identify on-site resources and agricultural infrastructure, identify product markets and processing facilities (if appropriate), and demonstrate how the planned agricultural uses substantially contribute to Marin's agricultural industry. An APSP shall provide evidence that at least 95% of the land will remain in agricultural production or natural resource protection and shall identify stewardship activities to be undertaken to protect agriculture and natural resources. An APSP shall be prepared by qualified professionals with appropriate expertise in agriculture, land stewardship, range management, and natural resource protection. The approval of a development proposal that includes an APSP shall include conditions ensuring the proper, long-term implementation of the plan.

(2) The requirement for an Agricultural Production and Stewardship Plan shall not apply to agricultural worker housing or to otherwise permissible agricultural dwellings ~~intergenerational homes and may be waived for residences and residential accessory buildings or structures to be occupied or used by the property owner(s) or lessee who is directly engaged in the production on the property of agricultural commodities for commercial purposes.~~ It may also be waived for otherwise permissible non-agricultural land uses development other than land divisions when the County finds that the proposal will enhance current or future agricultural use of the property and will not convert the property to ~~primarily~~ residential or other non-agricultural use, as evidenced by such factors as bona fide commercial agricultural production on the property, the applicant's history and experience in production agriculture, and the fact that agricultural infrastructure (such as fencing, processing facilities, marketing mechanisms, agricultural worker housing, or agricultural land leasing opportunities) has been established or will be enhanced.

(3) Projects subject to the potential requirement of preparing an Agricultural Production and Stewardship Plan ~~should~~ shall be referred to such individuals or groups with agricultural expertise as appropriate for analysis and a recommendation. Such individuals or groups ~~should~~ shall also be requested to periodically review and evaluate the effectiveness of the APSP program.

c. **Required findings.** Review and approval of ~~land use~~ Coastal ~~p~~ Permits for non-agricultural development, including land divisions and determinations of allowed density in the C-APZ zoning district, shall be subject to the following written findings, in addition to others required by this ~~Article~~ LCP:

1. The proposed development is necessary because the agricultural use of the property is no longer feasible. Any determination that agricultural use of the property is no longer feasible shall be made in writing and be supported by evidence. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease the hardship and enhance agricultural operations on the remainder of the property.
2. The proposed development will not conflict with the continuation or initiation of agricultural uses on the portion of the property that is not proposed for such development, on adjacent parcels, or on other agricultural parcels within one mile of the perimeter of the proposed development.

3. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development without extending urban services.
 4. If a proposed land division, the land division will not result in any parcel less than 60 acres. Land divisions are prohibited unless the agricultural productivity of any resulting lots and on adjacent parcels is not reduced. Land divisions shall only be allowed upon demonstration that the long-term agricultural productivity, including on each parcel to be created, would be maintained and enhanced and that agricultural productivity on adjacent parcels would be maintained.
 6. Land divisions shall only be permitted where 50% of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels, except that lease of a legal parcel at a level of agricultural use that will sustain the agricultural capacity of the site is not prohibited.
 7. Land divisions shall be prohibited if the resulting lots cannot be developed consistent with the LCP.
- d. **Transfer of development rights (TDR).** Proposed development within the C-APZ district may use the TDR provisions of Chapter 22.34 (Transfer of Development Rights), so long as such provisions are otherwise LCP consistent.

4. Agricultural Dwelling Unit Impacts and Agricultural Use. Ensure that lands designated for agricultural use are not de facto converted to residential use, thereby losing the long-term productivity of such lands, by the following means:

1. Agricultural dwelling units, other than principally permitted agricultural dwelling units, shall be reviewed to ensure they serve to maintain and enhance agricultural production and do not diminish current or future agricultural production on the property or convert it to primarily residential use.
2. Any proposed agricultural dwelling unit and related development subject to a Coastal Permit shall comply with LCP policies including ensuring that the mass and scale of new or expanded structures respect environmental site constraints and the character of the surrounding area. Such development must be compatible with ridge protection policies and avoid tree-cutting and grading wherever possible. All such development shall be clustered with existing structures and development on the farm, pursuant to Section 22.65.040(C)(1)(d), and shall be sited and designed to protect significant public views.

When considering proposed agricultural dwelling units, other than principally permitted agricultural dwelling units, the reviewing authority shall exercise its discretion in light of some or all of the following criteria for the purpose of ensuring that the land does not de facto convert to residential use:

- a. The applicant's history of production agriculture.
- b. How long term agricultural use of the property will be preserved — for example, whether there is an existing or proposed dedication or sale of permanent agricultural easements or other similar protective agricultural restrictions such as Williamson Act contract or farmland security zone.

- c. Whether long term capital investment in agriculture and related infrastructure, such as fencing, processing facilities, market mechanisms, agricultural worker housing or agricultural leasing opportunities has been established or is proposed to be established.
 - d. Whether sound land stewardship practices, such as organic certification, riparian habitat restoration, water recharge projects, fish-friendly farming practices, or erosion control measures, have been or will be implemented.
 - e. Whether the proposed development will facilitate the ongoing viability of agriculture such as through the transfer or lease of existing agricultural operations.
3. In no event shall agricultural dwellings subject to these provisions exceed 7,000 square feet in size. Where a farmhouse and one or two intergenerational dwellings are allowed in the C-APZ zone, the aggregate development of all such agricultural dwellings on the subject legal lot shall not exceed 7,000 square feet. However, agricultural worker housing, up to 540 square feet of garage space for each farmhouse, agricultural accessory structures, and up to 500 square feet of office space in the farmhouse used in connection with the agricultural operation on the property shall be excluded from the 7,000 square foot limitation.
 4. The square footage limitations noted in the above criteria represent maximum agricultural dwelling unit sizes and do not establish a mandatory entitlement or guaranteed right to development; rather, site constraints and resource protection standards may require reduced size limits in any particular case.
 5. Agricultural homestays, bed & breakfasts, home occupations, care facilities, group homes and similar permissible uses allowed in the C-APZ zone may only occur within otherwise allowable agricultural dwelling units and not within additional separate structures.

[BOS app. 10/2/2012]

22.65.050 – C-ARP Zoning District Standards

- A. **Purpose.** This Section provides development standards for the C-ARP zoning district ~~that are~~ designed to preserve productive lands for agricultural use through the clustering of allowed development.
- B. **Applicability.** Proposed development shall comply with the provisions of Section 22.65.030 (Planned District General Development Standards), and Chapter 22.64 (Coastal Zone Development and Resource Management Standards).
- C. **~~Sub~~Land division requirements.** Where otherwise consistent with the standards specified in Chapter 22.70.190, Subland divisions of small agricultural holdings within the C-ARP zoning district shall conform to the following standards:
 1. ~~Subdivision~~ Land division applications shall include information demonstrating to the Director that the design of proposed parcels provides the maximum feasible concentration of clustering.
 2. Clustered development shall be located both to provide for the retention of the maximum amount of land in agricultural use and to protect important wildlife habitat areas.

Development clusters shall also be located to maintain the visual resources and environmentally sensitive areas of the site and surrounding areas.

3. Open space easements or other restrictions shall be required to designate intended use and restrictions on the property being subdivided.

D. Agricultural and open space uses. Agricultural uses shall be encouraged in the C-ARP zoning district.

1. As part of the Coastal Permit review process, usable agricultural land should be identified and efforts made to preserve and/or promote its use to the maximum extent feasible. Agricultural land not presently in production ~~may~~ shall be preserved to the maximum extent feasible as undeveloped private open space to be made available on a lease basis in the future for compatible agricultural uses. The primary intent shall be to preserve open lands for agricultural use, not to provide open space/recreational land uses that will interfere or be in conflict with agricultural operations.
2. Lands to be preserved for agriculture and/or open space use may require the creation of a homeowners' association or other organization for their maintenance.
3. The nature and intensity of large scale agricultural uses should be described in the form of an Agricultural Production and Stewardship Plan (APSP). The APSP should consider intensity of grazing, runoff protection, chemical and fertilizer use and, in order to preserve agricultural land practices, separation from existing or proposed residential uses.
4. ~~In some cases, the County may require reasonable public access across those lands remaining in private ownership.~~ Pedestrian and/or equestrian access shall be provided across lands remaining in private ownership where consistent with adopted County and coastal plans, and where consistent with federal and state law, ~~where not in conflict with agricultural uses, and where liability issues have been resolved.~~

22.65.060 – C-RSP Zoning District Standards

- A. Purpose.** This Section provides development standards for the C-RSP zoning district that are intended to allow for site planning with careful consideration to sensitive site characteristics.
- B. Applicability.** Proposed development ~~and new land uses~~, as defined in Article VIII, shall comply with the provisions of Section 22.65.030 (Planned District General Development Standards), and Chapter 22.64 (Coastal Zone Development and Resource Management Standards).
- C. C-RSP zoning district height limit - Tomales Bay.** New residential construction on the shoreline of Tomales Bay shall be limited in height to 15 feet. Additional height may be permitted where the Director determines, based on topography, vegetation or character of existing development, that a higher structure would not create additional interference with coastal views either to, along, or from the water.

22.65.070 – C-RSPS Zoning District Standards (Seadrift Subdivision)

- A. Purpose.** This Section provides development standards for the C-RSPS zoning district (Seadrift Subdivision) that provide for site planning with careful consideration of sensitive site characteristics.

- B. Applicability.** Proposed development ~~and new land uses~~, as defined in Article VIII, shall comply with the provisions of Section 22.65.030 (Planned District General Development Standards) and Chapter 22.64 (Coastal Zone Development and Resource Management Standards).
- C. Ocean setbacks.** On those lots fronting the ocean and south of Seadrift Road, no development shall be located seaward of the building setback line as shown on the map of Seadrift Subdivision Number One, RM, Bk. 6, Pg. 92 and Seadrift Subdivision Number Two, RM, Bk. 9, Pg. 62, and as described in the Subdivision's covenants, conditions and restrictions in effect as of June 19, 1981 (Ordinance 2637).
- D. Height limit.** Development on all lots in Seadrift shall be limited to a maximum height as follows:
1. In Seadrift Subdivision One (with the exception of lots 01 through 03) and Two, and lots 01 and 02 of Parcel 1 in the Lands of Sidney J. Hendrick, finished floor elevations shall not exceed 19.14 feet above NAVD (North American Vertical Datum), except on those portions of lots or parcels where the Federal Emergency Management Agency (FEMA) requires minimum finished floor elevations to be set at a higher level. In the areas of lots or parcels where FEMA requires minimum finished floor elevations to be set at levels higher than 19.14 feet above NAVD, minimum floor elevations shall comply with FEMA requirements. The height of any structure shall not exceed 34.14 feet above NAVD, provided that in those portions of lots and parcels where FEMA requires minimum finished floor elevations to be set at a level higher than 19.14 feet above NAVD, the height of any structure shall not be greater than 15 feet above the level of the minimum finished floor elevation required by FEMA. Maximum allowable heights identified above shall be reduced and/or limited as necessary to protect community character and scenic resources.
 2. In Seadrift Lagoon Subdivisions One and Two, Seadrift Subdivision Three, Norman's Seadrift Subdivisions, and Lots 01 through 03 in Seadrift Subdivision One, finished floor elevation shall not exceed 14.14 feet above NAVD. Total height of a structure shall not exceed 29.14 feet above NAVD. Maximum allowable heights identified above shall be reduced and/or limited as necessary to protect community character and scenic resources.
- E. Public access requirements.** Public access within the Seadrift Subdivision and on the ocean beach adjacent to Seadrift shall comply with the provisions of the March 16, 1994 Settlement Agreement between the Seadrift Association and the County of Marin, et al., in Kelley et al. v. California Coastal Commission, Marin County Superior Court Case No. 152998, and as set forth in that certain Deed of Open Space and Limited Pedestrian Easement and Declaration of Restrictions dated November 1, 1985, and recorded March 26, 1986, Marin County Recorder's Office.

Chapter 22.66 – Coastal Zone Community Standards

Sections:

- 22.66.010 – Purpose of Chapter
- 22.66.020 – Applicability
- 22.66.030 – Muir Beach Community Standards
- 22.66.040 – Stinson Beach Community Standards
- 22.66.050 – Bolinas Community Standards
- 22.66.060 – Olema Community Standards
- 22.66.070 – Point Reyes Station Community Standards
- 22.66.080 – Inverness Community Standards
- 22.66.090 – East Shore Community Standards
- 22.66.100 – Tomales Community Standards
- 22.66.110 – Dillon Beach Community Standards

22.66.010 – Purpose of Chapter

This Chapter provides development standards for specific communities within the Coastal Zone designed for, where the preservation of unique community character ~~requires standards for development that differ from the general coastal zoning district requirements of this Article.~~

22.66.020 – Applicability

The provisions of this Chapter apply to proposed development ~~and new land uses, as defined in Article VIII,~~ in addition to the general site planning standards for the coastal zoning districts in Chapter 22.64 (Coastal Zone Development and Resource Management Standards) and all other applicable provisions of this Development Code and LCP. ~~In the event of any perceived conflict between the requirements of this Chapter and any other provisions of this Development Code, this Chapter shall control.~~

22.66.030 – Muir Beach Community Standards

- A. Community character.** Maintain the small-scale character of Muir Beach as a primarily residential community with recreational, small-scale visitor-serving and limited agricultural use (Land Use Policy C-MB-1).

22.66.040 – Stinson Beach Community Standards

- A. Community character.** Maintain the existing character of residential, small-scale commercial and visitor-serving recreational development in Stinson Beach (Land Use Policy C-SB-1).
- B. Limited access in Seadrift.** Allow only limited public access across the open space area generally located north of Dipsea Road and adjacent to Bolinas Lagoon in the Seadrift Subdivision to protect wildlife habitat, subject to the Deed of an Open Space and Limited Pedestrian Easement and Declaration of Restrictions as recorded March 26, 1986 as Instrument No. 86-15531. This area includes parcels 195-070-35 and 36; 195-080-29; 195-090-44; 195-320-62 and 78; and 195-340-71, 72, and 73 (Land Use Plan Policy C-SB-2).

- C. Density and location of development in Seadrift.** Development within the Seadrift Subdivision shall be subject to the standards contained in Land Use Plan Policy C-SB-3.
- D. Easkoot Creek.** Easkoot Creek shall be restored, as feasible, to improve habitat and support natural processes (Land Use Plan Policy C-SB-4).
- E. Height limit in Highlands Subdivision.** In the Highlands Subdivision of Stinson Beach, the maximum height shall be no more than seventeen (17) feet per Land Use Plan Policy C-DES-4.
- F. Height measurement in Seadrift Subdivision.** In FEMA special flood hazard (V) zones within the Seadrift Subdivision, the maximum building height of 15 feet shall be measured from the minimum floor elevation required by the flood hazard zone designation per Land Use Plan Policies C-DES-4 and C-EH-11.
- G. Stinson Beach dune and beach areas.** Development of shorefront lots within the Stinson Beach and Seadrift areas shall be limited per Land Use Plan Policy C-BIO-9.
- H. R-2 zoning.** Existing R-2 zoning in Stinson Beach shall be maintained per Land Use Plan Policy C-SB-6.
- I. Repair or Replacement of Structures.** The repair or replacement of existing duplex residential structures shall be permitted per Land Use Plan Policy C-SB-7.

22.66.050 – Bolinas Community Standards

- A. Community character.** Maintain the existing character of small-scale residential, commercial, and agricultural uses in Bolinas (Land Use Plan Policy C-BOL-1).
- B. New development on the Bolinas Gridded Mesa.** New construction and the redevelopment and rehabilitation of existing structures on the Bolinas Mesa shall be permitted in accordance with the policies of the Bolinas Gridded Mesa Plan which has been certified by the California Coastal Commission (Land Use Plan Policy C-BOL-3).

22.66.060 – Olema Community Standards

- A. Community character.** Maintain Olema's existing mix of residential, commercial, and open space land uses and the small-scale, historic community character. The impacts of future development on the hillside area of Olema shall be minimized through application of the design standards contained in Land Use Plan Policy C-OL-1.

22.66.070 – Point Reyes Station Community Standards

- A. Community character.** Maintain the existing mix of residential and small-scale commercial development and the small-scale, historic community character in Point Reyes Station (Land Use Plan Policy C-PRS-1).
- B. Commercial infill.** Commercial infill development should be promoted within and adjacent to existing commercial uses per Land Use Plan Policy C-PRS-2.
- C. Visitor-serving and commercial facilities.** The development of additional visitor-serving

and commercial facilities, especially overnight accommodations, shall be encouraged per Land Use Plan Policy C-PRS-3.

- D. Junction of Highway One and Point Reyes Petaluma Road (APN 119-240-55).** The development of APN 119-240-55 shall comply with standards contained in Land Use Plan Policy C-PRS-4.
- E. New residential development in Point Reyes station.** New residential development in Point Reyes Station shall comply with the building height, building size, and landscaping criteria specified in Land Use Plan Policy C-PRS-5.
- F. Lighting.** Exterior lighting shall comply with Land Use Plan Policy C-PRS-6.
- G. Point Reyes Affordable Homes Project.** Development of the 18.59 acre property consisting of Assessor's parcels 119-260-02 through -06 (formerly 119-240-45) and 119-240-02 through -13 (formerly 119-240-46, 57 and 58) shall conform to the provisions of Land Use Plan Policy C-PRS-7.

22.66.080 – Inverness Community Standards

- A. Community character.** Maintain the existing character of residential and small-scale commercial development in the Inverness Ridge communities (Land Use Plan Policy C-INV-1).
- B. Paradise Ranch Estates design guidelines.** Development in Paradise Ranch Estates should maintain the existing exclusively residential nature of the community and should consider the community's unique factors such as substandard roads and the need to protect public viewsheds from adjacent parklands and other public areas. The guidelines contained in Land Use Plan Policy C-INV-3 regarding protection of visual resources, public services, and tree protection shall apply to development within Paradise Ranch Estates.
- C. Tomales Bay shoreline development standards.** New construction along the shoreline of Tomales Bay shall be limited in height to 15 feet above grade except as provided for per Land Use Plan Policy C-CD-6.
- D. Road and Path Maintenance.** Existing residential streets and pathways shall be maintained consistent with Land Use Plan Policy C-INV-4.

22.66.090 – East Shore Community Standards

- A. Community character.** Maintain the existing character of low-density residential, agriculture, mariculture and fishing or boating-related uses. The expansion or modification of visitor-serving or commercial development on previously developed lots along the east shore of Tomales Bay should be allowed consistent with Land Use Plan Policy C-ES-1.
- B. Tomales Bay shoreline development standards.** New construction along the shoreline of Tomales Bay shall be limited in height to 15 feet above grade except as provided for per Land Use Plan Policy C-CD-6.
- C. Protection of trees.** Significant stands of trees should be identified and protected (Land Use Plan Policy C-ES-2).

- D. Prioritization of water-related uses.** Mariculture, boat repair, fishing, water-related public recreation and scenic resources shall have priority over other uses along the shoreline (Land Use Plan Policy C-ES-3).
- E. Commercial land use.** The development of commercial and public facilities should be limited to existing activity centers, such as Nick's Cove, historic Marshall or near the Post Office/Marshall Boatworks and Marconi area (Land Use Plan Policy C-ES-4).
- F. Local serving facilities.** Local serving facilities should be incorporated in new development, where appropriate (Land Use Plan Policy C-ES-5).
- G. New marina development.** New marina developments shall make provisions for the use of the facilities by local commercial and recreational boats (Land Use Plan Policy C-ES-6).

22.66.100 – Tomales Community Standards

- A. Community character.** Maintain the existing character of residential and small-scale commercial development in the community of Tomales consistent with the provisions of Land Use Plan Policy C-TOM-1.

22.66.110 – Dillon Beach Community Standards

- A. Community character.** Maintain the existing character of residential and small-scale commercial development in Dillon Beach and Oceana Marin consistent with the provisions of Land Use Plan Policy C-DB-1 and C-DB-3.
- B. C-R-1:B-D Zoning standards.** The following standards shall apply in those areas of Dillon Beach governed by the C-R-1:B-D zoning district.
 - 1. Minimum lot size.** Parcels proposed in new land divisions shall have a minimum area of 1,750 square feet for each single-family dwelling.
 - 2. Setback requirements.** Structures shall be located in compliance with the following minimum setbacks (See Section 22.64.045(4)~~20.090~~, Setback Requirements and Exceptions):
 - (a) Front.** The minimum front yard setback shall be 10 feet.
 - (b) Sides.** The minimum side yard setbacks shall be 5 feet; 10 feet for a street side setback on a corner lot.
 - (c) Rear.** The minimum rear yard setback shall be 10 feet.
 - 3. Height limits.** Structures shall not exceed a maximum height of 20 feet (See Section 22.64.045(3)~~20.060~~ Height Limits and Exceptions)
 - 4. Floor area ratio (FAR).** Parcels in this district are exempt from this limitation.
- C. Lawson's Landing.** Lawson's Landing shall be retained as an important lower cost visitor serving facility per Land Use Plan Policy C-DB-2.

D. Dillon Beach Community Plan. Refer to the Dillon Beach Community Plan, which has been certified by the California Coastal Commission, when reviewing Coastal Permits per Land Use Plan Policy C-DB-4.

~~{BOS app. 12/11/2012}~~

CHAPTER 22.68 – COASTAL PERMIT REQUIREMENTS

Sections:

- 22.68.010 – Purpose of Chapter
- 22.68.020 – Applicability
- 22.68.030 – Coastal Permit Required development for Development
- 22.68.040 – Categorically Excluded Development Projects
- 22.68.050 – Exempt Projects Development
- 22.68.060 – Non-Exempt Development Projects
- 22.68.070 – De Minimis Waiver of Coastal Permit
- 22.68.080 – Projects Development Requiring a Coastal Commission Permit
- 22.68.090 – Consolidated Coastal Permit

22.68.010 – Purpose of Chapter

This Chapter identifies ~~determines when a~~ Coastal Permit requirements for ~~shall be required to authorize proposed development in the County's Coastal Zone.~~

22.68.020 – Applicability

The provisions of this Chapter apply to proposed development in the Coastal Zone as defined by Article VIII ~~Public Resources Code Section 30103.~~

22.68.030 – Coastal Permit Required

A Coastal Permit is required for development in the Coastal Zone ~~proposed that is undertaken by~~ any person, including a private entity or a state or local agency, unless the development is categorically excluded (per Section 22.68.040), exempt (per Section 22.68.050), or qualifies for a De Minimis Waiver (per Section 22.68.070).

Development (coastal), ~~is defined in Article VIII of this Development Code,~~ means:

On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code).

As used in this section, "structure" includes any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

~~Development and is interpreted to~~ includes installation of water or sewage disposal systems, the closure of ~~County managed~~ public accessways, changes in public access to the water including parking availability, and ~~the significant landform alteration of landforms~~. Significant landform alteration of land forms entails includes the removal or placement of vegetation on a beach, wetland, or sand dune, or within 100 feet of the edge of a coastal bluff, stream, or in ~~areas of natural vegetation designated as environmentally sensitive habitat areas (ESHA)~~.

~~On-going agricultural operations including cultivation, crop and animal management and grazing are not considered to be development or a change in the density or intensity of the use of land. For the purposes of this Chapter, "ongoing agricultural operations are those which exist presently or historically, and do not entail new encroachment within 100 feet of the edge of a wetland, stream, or riparian vegetation. For agricultural uses, a "change in the intensity of use of water, or access thereto" means~~ includes the development of new water sources such as construction of a new or expanded well or expansion of a surface impoundment.
{BOS app. 10/2/12, 1/15/2013}

22.68.040 – Coastal Permit Not Required: Categorically Excluded Development Projects

A. ~~A project~~ Development specifically designated as categorically excluded from the requirement for a Coastal Permit by Public Resources Code Section 30610(e) and implementing regulations is not subject to Coastal Permit requirements if such development is consistent with all terms and conditions of the Categorical Exclusion Order. A Coastal Permit is not required for the categories of development identified in Categorical Exclusion Orders E-81-2, E-81-6, and E-82-6 (see Appendix 7), and are only excluded provided that the Exclusion Orders themselves remain valid, the development is proposed to be located within the approved categorical exclusion area, and provided that the terms and conditions of the Exclusion Orders are met. For those Categorical Exclusions that require development to be consistent with the zoning ordinances in effect at the time the Categorical Exclusion Order was adopted, all local zoning ordinances in effect at the time each Categorical Exclusion Order was adopted are provided within Appendix 7.

B. **Categorical Exclusion Noticing.** The County shall provide notice of all categorical exclusion determinations within five working days of such determinations. The exclusion notice shall be provided to the applicant, the Coastal Commission, and any known interested parties (including those who have specifically requested such notice or have requested to be kept informed regarding the type of development subject to the categorical exclusion and/or development at the location and/or within the particular zoning district). In addition, ~~t~~The Director shall maintain, post on the Agency's website, and regularly transmit to the Coastal Commission a list and summary of development projects determined to be categorically excluded from the requirements of ~~this Chapter for obtaining~~ a Coastal Permit. The notice, list and summary shall be available for public inspection and shall include the applicant's name, project description and location, the reasons supporting the categorical exclusion determination (including evidentiary information and other materials (i.e., location maps, site plans, etc.)), and the date of the Director's exclusion determination for each project, and the procedures for challenging the Director's determination.

C. **Categorical Exclusion Challenge.** The determination of whether a development is categorically excluded from the requirements for a Coastal Permit can be challenged pursuant to Section 22.70.040.

{BOS app. 2/26/2013}

22.68.050 – Coastal Permit Not Required: Exempt Projects Development

The following ~~projects development~~, as determined by the Director, shall be exempt from the Coastal Permit requirements of ~~Section 22.68.030 – Coastal Permit Required~~, unless it is identified ~~listed~~ as non-exempt by Section 22.68.060. The County shall maintain a list of all exemption determinations, which shall be updated at least weekly and provided for public review at the Community Development Agency's front counter and webpage, transmitted weekly to the Coastal Commission, and made available upon request otherwise. The list shall include the applicant's name, project description and location, the reason supporting the exemption determination (including evidentiary information and other materials (i.e., location maps, site plans, etc.)), the date of the Director's determination for each project, and the procedures for challenging the Director's determination. The list shall identify its posting date, which shall be the date from which challenges are allowed within the next 30 days. The Director's determination of whether a proposed development is exempt from Coastal Permit requirements can be challenged pursuant to Section 22.70.040.

A. Improvements, ~~other than to a public works facility, on developed lots.~~ The following improvements on developed lots are exempt from Coastal Permit requirements:

1. Improvements to existing ~~All~~ fixtures and other structures directly attached to an existing structure, including improvements resulting in an increase of less than 10 percent of the floor area of the existing structure; and
2. Improvements to existing ~~S~~ structures on a residential lot normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds; but not including guest houses ~~or, self-contained residential units or 1,000 square feet or more of impermeable paving within an ESHA or its buffer;~~ and
3. Improvements to existing ~~L~~ landscaping on the lot.

B. Repair and maintenance. Repair and maintenance activities that do not result in the addition or change to, or enlargement or expansion of, the object of repair or maintenance. ~~No coastal permit shall be required for ordinary maintenance of the Seadrift Revetment, which is defined to include removal from the beach of any rocks or other material which become dislodged from the revetment or moved seaward from the identified footprint, replacement of such materials on the revetment, minor placement of sand over the revetment from a source other than the Bolinas Sandspit Beach, planting of dune grass on the revetment, and similar activities.~~

Unless destroyed by a 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 considered ~~solely~~ repair and maintenance, but instead constitutes a replacement structure requiring a Coastal Permit (see also "Redevelopment (coastal)" and "Redevelopment, Coastal (coastal)").

C. Replacement after disaster. The replacement of any legal structure, ~~other than a public works facility~~ destroyed by a disaster. The replacement structure shall:

1. Conform to applicable existing zoning requirements;
2. Be for the same legal use as the destroyed structure, ~~whether that use is legal conforming~~

~~or legal non-conforming;~~

3. Not exceed the floor area of the destroyed structure by more than 10 percent or 500 square feet, whichever is less, or the height or bulk of the destroyed structure by more than 10 percent (the applicant must provide proof of pre-existing floor area, height and bulk); and
4. Be sited in the same location on the site as the destroyed structure, ~~unless the Director determines that relocation is warranted because of proximity to coastal resources.~~

As used in this section:

(A): "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

(B): "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(C): "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

- D. Emergency work.** Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Calif. Government Code.
- E. Emergency highway repair.** Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. This paragraph does not exempt any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.
- F. Time-Share.** Any activity that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section ~~44003.5~~ 11212 of the Calif. Business and Professions Code.
- G. Maintenance dredging.** Maintenance dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone, pursuant to a permit from the US Army Corps of Engineers.
- H. Utility connection.** The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development for which a Coastal Permit has been approved; provided, however, that the Director may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.
- I. Temporary event.** All temporary events, except those which meet all of the following criteria:
 1. Are held between Memorial Day weekend and Labor Day ~~Would have a duration of two consecutive days or less;~~ and

2. Would ~~not~~ occupy all or a portion of 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 (not including booth or entry fees); ~~and~~
4. ~~Would not take place in any wetlands, streams and riparian vegetation, other ESHAs, or their buffers~~

The Planning Director (or the Coastal Commission's Executive Director if the Planning Director's determination is challenged) may determine that a temporary event, even an event that might otherwise not require a Coastal Permit per this section, shall require a Coastal Permit if he/she determines that the exercise of jurisdiction is necessary to implement the coastal resource protection policies of Chapter 3 of the Coastal Act, and/or that unique or changing circumstances exist relative to a particular temporary event that have the potential for significant adverse impacts on coastal resources. Such circumstances may include the following:

- a) The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;
- b) The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in Chapter 22.130.
- c) The event is scheduled between Memorial Day weekend and Labor Day and would restrict public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters;
- d) The event has historically required a Coastal Permit to address and monitor associated impacts to coastal resources.

J. Nuisance Abatement. Nuisance abatement actions by the County that are necessary to protect public health and safety, when such abatement must occur more quickly than could occur if authorized by a Coastal Permit. If exempt from a Coastal Permit, a nuisance abatement action shall involve the minimum level of development activity necessary to successfully abate the nuisance. Exempt nuisance abatement only applies to temporary development that is the minimum necessary to abate the nuisance, and only provided such development is removed if a regular Coastal Permit is not obtained that authorizes such development.

K. Ongoing Agricultural Activities. Existing legally established agricultural production activities, including all ongoing grading and routine agricultural cultivation practices (e.g., plowing, tilling, planting, harvesting and seeding), which have not been expanded into never before used areas and have not been discontinued for more than the previous 10 years. Agricultural production activities may include the conversion of grazing to crop production or other ongoing activity involving a change in the intensity of use of land or water (such as ongoing rotational grazing or crop farming) if the ongoing production activity has been part of a regular pattern of agricultural practices that has not been discontinued for more than the previous 10 years. If the ongoing production activity has been discontinued for more than the previous 10 years, the permit issuing authority may allow an Applicant to overcome the presumption that the agricultural production activity is no longer ongoing if the Applicant

demonstrates his or her ongoing intention to reinstate the agricultural production activity based on the history of agricultural production on the property, the long-term investment in the agricultural production activity on the property and the existence of infrastructure to support the agricultural production activity.

Conversion of grazing to crop production or any other new or expanded activity involving grading or a change in the intensity of use of land or water that has not been part of a regular pattern of agricultural practices or has been discontinued for more than the period of time prescribed herein is not an ongoing agricultural production activity but rather constitutes new development requiring a coastal permit consistent with Chapters 22.68 and 22.70, unless such development is categorically excluded by a Coastal Commission approved Categorical Exclusion Order.

{BOS app. 10/2/2012}

22.68.060 – Coastal Permit Required: Non-Exempt Projects Development

Notwithstanding the provisions of Section 22.68.050 – Exempt Projects Development, a Coastal Permit shall be required for all of the following types of projects development unless the specific type of development in the specific geographic area is otherwise categorically excluded by a Commission adopted categorical exclusion order or qualifies for a De Minimis Waiver:

A. Improvements to existing structures. Improvements to an existing structure if the structure is located on a beach; in a wetland, stream, or lake; seaward of the mean high tide line; in an ESHA; or within 50 feet of the edge of a coastal bluff.

B. Improvements to a Public Works Facility.

~~CB. Alterations-Improvements within geographically defined appealable specific areas.~~ On property that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, an improvement that would result in an increase of 10 percent or more of floor area of an existing structure (or an additional improvement of 10 percent or less where an improvement to the structure had previously been exempt from Coastal Permit requirements), an increase in height by more than 10 percent of an existing structure and/or any significant non-attached structure such as garages, fences, shoreline protective works or docks.

DC. Shoreline protective devices. Those repair and maintenance activities which involve seawalls and similar shoreline structures.

~~D. Seadrift Revetment.~~ ~~Extraordinary maintenance of the rock revetment as permitted by Coastal Commission permit #A 1 MAR 87 235 A issued August 31, 1994. Extraordinary maintenance is defined to include placement of any material on or adjacent to the seaward face of the revetment (other than replacement of dislodged material) or which expands the height or length of the revetment.~~

E. Changes in intensity of use. Improvements to a structure, other than a single-family residence or public works facility, which increase or decrease the intensity of use of the structure, as determined by the Director.

- F. Conversions.** Improvements carried out in conjunction with the conversion of an existing structure from a multi-family residential rental or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold, including a condominium conversion, stock cooperative conversion or motel/hotel conversion, ~~not including a time share project.~~
- G. Structures of special character and visitor appeal.** Demolition of, or substantial alterations or additions to any structure built prior to 1930, except for maintenance or repair consistent with its original architectural character and maintenance or repair that includes replacement-in-kind of building components.
- H. Water wells and septic systems.** The expansion or construction of water wells or septic systems.
- I. Landform alterations.** Any significant alteration of land forms, including grading (as defined in Section 22.130.030) and the removal or placement of vegetation on a beach or sand dune; in a wetland or stream; or sand dune, or within 100 feet of the edge of a coastal bluff or stream; or in areas of natural vegetation designated as environmentally sensitive habitat areas (ESHA).
- J. Future Improvements.** Any improvements to a single-family residence or other structure where the Coastal Permit issued for the original structure indicated that any future improvements would require a Coastal Permit.
- K. Repair and maintenance activities.** Repair and maintenance activities as follows:
1. Any method of repair or maintenance of a seawall, revetment ~~(other than ordinary maintenance of the Seadrift Revetment as provided by Section 22.68.050.B)~~, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:
 - (a) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;
 - (b) The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;
 - (c) The replacement of 20 percent or more of the materials of an existing structure with materials of a different kind; or
 - (d) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or ESHA, or within 20 feet of coastal waters or streams.
 2. Any method of routine maintenance dredging that involves:
 - (a) The dredging of 100,000 cubic yards or more within a twelve (12) month period;
 - (~~a~~b) The placement of dredged spoils of any quantity within an ESHA, on any sand area, within 50 feet of the edge of a coastal bluff or ESHA, or within 20 feet of coastal waters or streams; or

- (b) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.
- 3. Any repair or maintenance to facilities or structures or work located in an ESHA, any sand area, within 50 feet of the edge of a coastal bluff or ESHA, or within 20 feet of coastal waters or streams that includes:
 - (a) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials; or
 - (b) The presence, whether temporary or permanent, of mechanized equipment or construction materials.

22.68.070 – De Minimis Waiver of Coastal Permit

The Director may waive the requirement for a Coastal Permit through a De Minimis Coastal Permit Waiver in compliance with this Section upon a written determination that the project development meets all of the criteria and procedural requirements set forth in A. through G. below:

- A. **No Adverse Coastal Resource Impacts.** The development has ~~Involves~~ no potential for adverse effects, either individually or cumulatively, on coastal resources,
- B. **LCP Consistency.** The development is ~~Is~~ consistent with the certified Marin County Local Coastal Program,
- C. **Not Appealable to CCC.** The development is ~~Is~~ not of a type or in a location where an action on the project development would be subject to a Coastal Permit issued appealable by ~~to~~ the Coastal Commission,
- D. **Notice.** Public notice of the proposed De Minimis Waiver of Coastal Permit and opportunities for public comment ~~have been~~ shall be provided as required by Section 22.70.050, including provision of notice to the Coastal Commission.
- E. **Executive Director Determination.** The Director shall not issue a waiver until the public comment period has expired. shall provide a notice of determination to issue a De Minimis Waiver to the Executive Director of the Coastal Commission no later than 10 days prior to the required Board of Supervisors hearing. If the Executive Director of the Coastal Commission requests notifies the Director that a waiver should not be issued, the applicant shall be advised that required to obtain a Coastal Permit is required if the applicant wishes to proceed with the development.
- F. **Review and Concurrence.** The Director's determination to issue a De Minimis Waiver shall be subject to review and concurrence by the Board of Supervisors. The Director shall not issue a De Minimis Waiver until the public comment period, including at a minimum through and including the required Board of Supervisor hearing, has expired. No De Minimis Waiver may be issued unless it has been reported to the Board of Supervisors at a regularly scheduled meeting where the public shall have the opportunity to testify and otherwise participate in a hearing on the De Minimis Waiver. If two or more Supervisors so request at this hearing, the De Minimis Waiver shall not be issued and, instead, an application for a Coastal Permit shall

be required and processed in accordance with the provisions of this chapter. Otherwise, the Waiver shall be deemed approved, effective, and issued the day of the Board of Supervisor hearing. In addition to the noticing requirements above, Within seven (7) calendar days of effective date of a De Minimis Waiver of Coastal Permit, the Director shall notify the Coastal Commission and any persons who specifically requested notice of such action via first class mail, a Notice of Final Action describing the issuance and effectiveness of the De Minimis Waiver.

- G. Waiver Expiration.** A De Minimis Waiver shall expire and be of no further force and effect if the authorized development is not completed within two years of the effective date of the waiver. In this event, a Coastal Permit shall be required for the development.

22.68.080 – ~~Projects~~ Development Requiring a Coastal Commission Coastal Permit

- A. Coastal Commission approval required.** ~~Development and new land uses, as defined in Article VIII,~~ proposed on tidelands, submerged lands, public trust lands, or otherwise located ~~seaward of the line of within the~~ California Coastal Commission's retained coastal permitting jurisdiction, shall require a Coastal Permit from the Coastal Commission in compliance with Public Resources Code Section 30519(b). Also under the Coastal Commission's continuing jurisdiction are amendments or extensions to Coastal Permits issued by the Coastal Commission; thermal power plants of 50 megawatts or greater along with the transmission lines, fuel supply lines, and related facilities to serve them; state university or college projects; and both federal and non-federal projects on federal land.
- B. Determination of jurisdiction.** The determination of jurisdiction shall be made by the Coastal Commission based upon maps and other descriptive information that the Applicant, the County, Coastal Commission and/or State Lands Commission may supply.
- C. ~~Referral.~~** ~~Before issuing a Coastal Permit, the Coastal Commission will refer the application to the State Lands Commission for a determination whether a State Lands Commission permit or lease is required for the proposed development, and whether the State Lands Commission finds it appropriate to exercise the easement over that property. The Coastal Commission shall also refer the application to the County for review and comment.~~
- D. County land use designations and zoning districts.** County land use designations and zoning districts on public trust lands and federal lands shall be advisory only for purposes of the Coastal Commission's review of a coastal permit application.
- E. County Approvals.** For Coastal Commission Coastal Permit applications, the Applicant shall still be required to obtain all other non-Coastal Permit approvals necessary for a proposed development, and any required non-ministerial approvals must be obtained and submitted as part of the Coastal Permit application to the Commission.

22.68.090 – Consolidated Coastal Permit

~~Consolidated County-Coastal Commission~~ Coastal Permit. If a proposed development requires two separate Coastal Permits, one from the County and one from the Coastal Commission, a consolidated Coastal Permit application may be considered by the Coastal Commission according to the following procedure:

- A.** The Director, with agreement of the applicant, may request the Coastal Commission, through its executive director, to process a consolidated Coastal Permit. The standard of review for a consolidated Coastal Permit application shall follow Chapter 3 of the Coastal Act (commencing with Public Resources Code Section 30200), with the Marin County Local Coastal Program used as guidance. The application fee for a consolidated Coastal Permit shall be determined by reference to the Coastal Commission's permit fee schedule.
- B.** Prior to making a request for a consolidated Coastal Permit, the Director shall first determine that public participation would not be substantially impaired by that review process.

CHAPTER 22.70 – COASTAL PERMIT ADMINISTRATION

Sections:

- 22.70.010 – Purpose of Chapter
- 22.70.020 – Applicability
- 22.70.030 – Coastal Permit Filing, Initial Processing
- 22.70.040 – Appeal of Permit Category Determination
- 22.70.050 – Public Notice
- 22.70.060 – Decision on Coastal Permit
- 22.70.070 – Required Findings
- 22.70.080 – Appeal of Coastal Permit Decision
- 22.70.090 – Notice of Final Action
- 22.70.100 – Notice of Failure to Act
- 22.70.110 – Effective Date of Final Action
- 22.70.120 – Expiration Date and Time Extensions
- 22.70.130 – Amendments to Coastal Permits
- 22.70.140 – Emergency Coastal Permits
- 22.70.150 – Coastal Zone Variances
- 22.70.160 – Coastal Zone Variance Exemptions
- 22.70.170 – Decision and Findings
- 22.70.180 – Potential Takings Economic Evaluation

22.70.010 – Purpose of Chapter

This Chapter provides procedures for ~~the filing, processing, and action on~~ Coastal Permits, ~~De Minimis Waivers and Categorical Exclusions~~ applications, including Coastal Permit Exclusions, Exemptions, and De Minimis Waivers as described in Chapter 22.68.

22.70.020 – Applicability

The provisions of this Chapter apply to the preparation, filing, review, and approval or denial of all ~~Coastal Permit, De Minimis Waiver, and Categorical Exclusion~~ applications for development in Marin County, whether such approval or denial occurs through a Coastal Permit, De Minimis Waiver, Exemption, or Categorical Exclusion.

22.70.030 – Coastal Permit Filing, Initial Processing

A. Application and filing. Coastal Permit application submittals shall include all information and other materials required by the Coastal Permit application forms, provided by the Agency. The application and accompanying materials shall be filed with the Agency before or concurrent with an application for any land use permit required by this Article. The Coastal Permit application shall include:

1. Project plans and supporting materials sufficient to determine whether the project complies with all relevant policies of the Local Coastal Program;
2. Documentation of the applicant's legal interest in all the property upon which work is proposed to be performed, and all contiguous properties under the same ownership. The area subject to the Coastal Permit may include such contiguous properties where the

Director finds that necessary to achieve the requirements of the Local Coastal Program. The reviewing authority shall consider all properties under the same ownership when reviewing development in the C-APZ zoning district. The area covered by a proposed project may also include multiple ownerships.

3. A dated signature by or on behalf of each of the applicants, attesting to the truth, completeness and accuracy of the contents of the application and, if the signer of the application is not the applicant, written evidence that the signer is authorized to act as the applicant's representative and to bind the applicant in all matters concerning the application; and
4. Any additional information deemed by the Director to be required for specific categories of development or for development proposed from specific geographic areas.

B. Determination of permit-processing category. The Director shall determine if the proposed ~~project development~~ is categorically excluded, exempt, qualifies for a De Minimis Waiver, is or is not appealable to the Coastal Commission and/or requires a Coastal Permit that does or does not require a public hearing as set forth below. ~~follows. With the exception of categorical exclusions,~~ Notice of processing category determination shall be sent in compliance with the requirements specified for the particular permit category (i.e. within 5 working days of such determination for exclusions; at least 10 days prior to a hearing or action for de minimis waivers, non-public hearing applications, and public hearing applications; and at least 15 working days before the required Planning Commission hearing for public hearing waiver applications), and for exemptions shall be posted (and challenges shall be allowed within 30 days of such posting date). All such determinations regarding permit category may be ~~appealed~~ challenged in compliance with Section 22.70.040 – Appeal of permit Category Determination.

1. **Categorical exclusion.** A determination that a ~~project development~~ is categorically excluded shall comply with Section 22.68.040 – Coastal Permit Not Required: Categorically Excluded Development Projects.
2. **Exemption.** A determination that development is exempt from the requirement to obtain a Coastal Permit shall comply with Section 22.68.050 – Coastal Permit Not Required: Exempt Development and with Section 22.68.060 – Coastal Permit Required: Non-Exempt Development.
32. **De Minimis Waiver.** A determination that a project qualifies for a De Minimis Waiver shall comply with 22.68.070 – De Minimis Waiver of Coastal Permit.
43. **~~Administrative Non-public hearing applications.~~** A public hearing shall not be required when an application is not ~~defined as~~ appealable to the Coastal Commission by 22.70.080 - Appeal of Coastal Permit Decision, unless a public hearing is required for another discretionary planning permit for the same project or as determined by the Director. Such applications shall be accompanied by a statement of why County decisions on the proposed development would not be appealable to the Coastal Commission, and the reasons supporting such a determination.
54. **Public hearing applications.** A public hearing shall be required when a project is defined as appealable to the Coastal Commission by 22.70.080 - Appeal of Coastal Permit Decision, unless the proposed project only entails the approval of a second unit ~~use in a residential zone~~ or if it qualifies for a public hearing waiver. If a public hearing is held for another type of discretionary permit, the same review authority shall issue the decision on

~~the Coastal Permit. Such applications shall be accompanied by a statement of whether County decisions on the proposed development would be appealable to the Coastal Commission, and the reasons supporting such a determination.~~

65. Public hearing waiver for minor development appealable to the Commission. A public hearing that would otherwise be required for ~~at the below identified~~ minor development appealable to the Commission under 22.70.080(B) shall be waived if both the following occur:

- (a) Notice is provided as required by Section 22.70.050 – “Public Notice” that a public hearing shall be held upon request by any person ~~is provided~~, and
- (b) No ~~written~~ request for a public hearing is received within 15 working days from the date of sending the notice required by Section 22.70.050.

In addition to the requirements of Section 22.70.050, the notice shall include a statement that the hearing will be cancelled if no person submits a ~~written~~ request for a public hearing as provided above, and a statement that failure by a person to request a public hearing may result in the loss of that person’s ability to appeal to the Coastal Commission any action taken by the County of Marin on the Coastal Permit application.

For purposes of this Section, “minor development” means a development that the Director determines satisfies all of the following requirements:

- (1) As proposed, it is consistent with the certified Local Coastal Program,
- (2) Requires no discretionary approvals other than a Coastal Permit, and
- (3) As proposed, it has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.

Notwithstanding the waiver of a public hearing, any written comments submitted regarding a coastal permit application shall be made part of the permit application record. Such applications shall be accompanied by a statement of whether County decisions on the proposed development would be appealable to the Coastal Commission, and the reasons supporting such a determination.

C. Initial processing. A Coastal Permit shall be processed concurrently with other permit applications required for the project, and shall be evaluated as provided by Chapter 22.40 (Application Filing and Processing, Fees).

~~[BOS app. 10/2/2012, 12/11/2012, 2/26/2013]~~

22.70.040 – Appeal of Challenges to Permit Processing Category Determination

Where an applicant or interested person disputes the Director's ~~permit-processing category~~ determination of ~~Coastal Permit category~~ (Section 22.70.030.B – Determination of ~~Permit Processing~~ Category), the determination may be challenged ~~appealed~~ as follows:

A. Challenges to Processing Category Determination. The Director’s determination that a

proposed development is to be processed as a categorical exclusion, exemption, de minimis waiver, non-public hearing application, public hearing application, or public hearing waiver application may be challenged ~~General County appeal procedure.~~ Appeals to the Planning Commission or Board shall be filed and processed in compliance with 22.114 (Appeals).

B. Timing of Challenge County appeal. ~~A determination regarding permit-processing category by the Director may be appealed-challenged to the Planning Coastal Commission, and subsequently to the Board, within 10 business days of the determination date of sending the notice of determination for exclusions, within 10 days of the date of sending the notice for de minimis waivers, non-public hearing applications, and public hearing applications; within 15 working days of the date of sending the notice for public hearing waiver applications; and within 30 days of its posting date for exemptions.~~

C. ~~Procedures for appeals of to permit category determination to the Coastal Commission~~ Challenge Procedures. ~~Appeals of permit category determinations to the Coastal Commission shall follow the procedures contained in California Code of Regulations, Title 14, section 13569 (Determination of applicable Notice and Hearing Procedures). Where an applicant, interested person, the County, or the Coastal Commission's Executive Director has a question as to any processing category determination under Section 22.70.030 for a proposed development, the following procedures shall provide an administrative resolution process for determining the appropriate permit category:~~

- (1) The County shall make its determination as to the processing category for the proposed development in accordance with the procedure set forth in Section 22.70.030.
- (2) If the County's processing category determination is challenged by the applicant, an interested person, or the Coastal Commission's Executive Director, or if the County wishes to have a Coastal Commission determination as to the appropriate processing category, the County shall notify the Commission of the dispute/question and shall request an Executive Director's opinion. County processing of the permit application shall cease if a challenge is received by the County and/or the Coastal Commission.
- (3) The Executive Director shall provide his or her opinion to the County, the applicant and any other known interested parties as soon as possible. There are three possible outcomes of a challenge:
 - (a) If the Executive Director agrees with the County's determination, then the determination shall be final and shall apply to the proposed development;
 - (b) If the Executive Director disagrees with the County's determination, and the County then agrees with the Executive Director's opinion, then the review and permit procedures associated with the Executive Director's opinion shall apply to the proposed development; or
 - (c) If the Executive Director disagrees with the County's determination, and the County disagrees with the Executive Director's opinion, then the matter shall be set for public hearing for the Coastal Commission to make the final determination of applicable review and permit procedures, and the Coastal Commission's determination shall apply to the proposed development.
- (4) The challenge period shall be deemed concluded if no challenge is received within the time periods specified in 22.70.040(B), or when the Executive Director provides his or her opinion to the County in outcomes (a) or (b) above, or when the Executive Director provides the Coastal Commission's determination to the County in outcome (c) above.

The operation and effect of any application shall be stayed until the challenge period is concluded.

22.70.050 – Public Notice

Notice to the public of a pending action on a Coastal Permit or De Minimis Waiver or on a public hearing waiver for minor development shall be given as follows:

A. Form of notice. Permit applications shall be noticed at least 10 days prior (15 working days for public hearing waiver applications) to a hearing or action on the proposed project by posting notice in at least one location that is conspicuously visible to the general public (and as many locations as necessary to ensure that the public is appropriately provided notice) on or adjacent to the property which is the subject of the permit (where the contents of the notice shall at a minimum be consistent with the Content of Notice section below) and by mailing notice to:

1. The owner(s) or owner's agent of ~~the all properties~~ for which development is proposed being considered, and, the applicant, and any applicant representatives;
2. Each local agency expected to provide essential facilities or services to the project, ~~whose ability to provide the facilities and services may be significantly affected by the proposed project;~~
3. Any person who has filed a ~~written~~ request for notice (e.g., for the site, for the particular development, for the type of development, development in general) with the Director ~~and has paid the fee set by the most current County Fee Ordinance for the notice;~~
4. All owners of real property within three hundred feet of the ~~properties~~ on which the development is proposed, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of less than twenty thousand square feet or a maximum density higher than two units per acre, or all owners of real property within six hundred feet of the properties on which development is proposed, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of twenty thousand square feet or greater, or a maximum density of two units per acre or lower, but at a minimum all owners of real property adjacent to the properties on which the development is proposed shall be provided with notice;
5. All owners and all occupants of parcels of real property located within 100 feet (not including roads) of the perimeter of the real properties on which the development is proposed.
6. All agencies for which an approval for the proposed development may be required.
7. The Supervisor for the District.
8. All known interested parties.
- ~~59.~~ The Coastal Commission.

Notices to the above recipients listed in 1 through 5 above shall be provided whether or not a

public hearing is required on the permit. If a public hearing is required, notice shall also be published at least once in a local newspaper of general circulation in the County.

The Director may also require additional means of notice that is reasonably determined necessary to provide adequate public notice of the ~~potential decision on~~ application for the proposed project.

B. Content of notice. The required notice may be combined with other required project permit notice(s), shall be mailed by First Class mail and shall include the following information:

1. A statement that the project is within the Coastal Zone, and that the project decision will include a determination on a Coastal Permit;
2. The date of filing of the application;
3. The name of the applicant;
4. The number assigned to the application;
5. A description of the proposed project and its location;
6. A determination of whether the project is appealable to the Coastal Commission under Section 30603(a) of the Public Resources Code;
7. The date, time and place of the hearing and/or decision on the application;
8. A brief description of the procedures for public comment and decision on the application, including listing what review authority is to decide on the Coastal Permit application, as well as including the system of appeal if applicable;
9. If no public hearing is held, a description of the applicable public comment period sufficient to allow for the submission of comments by mail prior to the local decision; and
10. If a public hearing is proposed to be waived, a description of the public hearing waiver process as provided in Section 22.70.030.B.5.
11. All procedures for challenge and appeal associated with the type of application being considered.

C. Renoticing required. If a decision on a Coastal Permit is continued by the review authority to a date or time not specific, the item shall be renoticed in the same manner and within the same time limits established by this Section. If a decision on a Coastal Permit is continued to a specific date and time, then no renoticing is required.

D. State Lands Commission notification. Notice shall be provided to the State Lands Commission when an application for a Coastal Permit is submitted to the County on property identified as potentially subject to the public trust.

22.70.060 – Decision on Coastal Permit

A. Review authority. A decision to approve, conditionally approve, or deny a Coastal Permit shall be by the applicable review authority.

1. The Director shall take action on a non-hearing Coastal Permit application.
2. Where the decision required for the permit by this Development Code or other County Code provision is to be by the Zoning Administrator, Planning Commission, or Board, that review authority shall conduct a public hearing and take action on the Coastal Permit application.
3. Where the decision required for the permit by this Development Code or other County Code provision is to be by the Director or other County officer, and a public hearing is required, the Zoning Administrator shall hold a public hearing and approve or deny the Coastal Permit application.
4. For projects requiring multiple approvals under various provisions of the County Code, and where at least one approval is required by the Zoning Administrator or Planning Commission, the Zoning Administrator or Planning Commission may hold the public hearing and approve or deny the Coastal Permit application at the same time as taking action on the other applications.
5. For appealable projects or other public hearing coastal projects for which the County permit requirements do not identify a review authority, the Coastal Permit application shall be heard, and approved or denied by the Zoning Administrator.

22.70.070 – Required Findings

Findings. The applicable review authority shall approve a Coastal Permit only when it first makes the findings below in addition to any findings required by this Article. Findings of fact establishing that the project conforms to ~~the all~~ requirements ~~and objectives~~ of the Marin County Local Coastal Program shall be made and shall include all of the findings enumerated below. The findings shall reference applicable policies of the Marin County Local Coastal Program where necessary or appropriate including those identified below.

- A. Coastal Access.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Public Coastal Access section of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable specific standards contained in Section 22.64.180 (Public Coastal Access). Where the project is located between the nearest public road and the sea, a specific finding must be made that the proposed project, as conditioned, is in conformity ~~findings shall include a determination of the project's conformity~~ with the public access and recreation policies of Chapter 3 of the California Coastal Act (commencing with Section 30200 of the Public Resources Code).
- B. Biological Resources.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Biological Resources section of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable specific standards contained in Section 22.64.050 (Biological Resources).
- C. Environmental Hazards.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Environmental Hazards section of the Marin County Land Use Plan ~~Local Coastal Program~~, including that new development during its economic life (100

years) is safe from and does not contribute to geologic or other hazards, and the applicable ~~specific~~ standards contained in Section 22.64.060 (Environmental Hazards).

- D. Agriculture and Mariculture.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Agriculture and Mariculture sections of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable ~~specific~~ agricultural and maricultural standards contained in Chapter 22.32.
- E. Water Resources.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Water Resources section of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable ~~specific~~ standards contained in Section 22.64.080 (Water Resources).
- F. Community Design.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Community Design section of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable ~~specific~~ standards contained in Section 22.64.100 (Community Design).
- G. Community Development.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Community Development section of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable ~~specific~~ standards contained in Section 22.64.110 (Community Development).
- H. Energy.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Energy section of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable ~~specific~~ standards contained in Section 22.64.120 (Energy).
- I. Housing.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Housing section of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable ~~specific~~ standards contained in Section 22.64.130 (Housing).
- J. Public Facilities and Services.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Public Facilities and Services section of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable ~~specific~~ standards contained in Section 22.64.140 (Public Facilities and Services).
- K. Transportation.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Transportation section of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable ~~specific~~ standards contained in Section 22.64.150 (Transportation).
- L. Historical and Archaeological Resources.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Historical and Archaeological Resources section of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable ~~specific~~ standards contained in Section 22.64.160 (Historical and Archaeological Resources).
- M. Parks, Recreation, and Visitor-Serving Uses.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Parks, Recreation, and Visitor-Serving Uses section of the Marin County Land Use Plan ~~Local Coastal Program~~ and the applicable ~~specific~~ standards contained in Section 22.64.170 (Parks, Recreation, and Visitor-Serving Uses).

N. **LCP Consistency.** The proposed project, as conditioned, is consistent with all applicable provisions of the Marin County LCP.

22.70.080 – Appeal of Coastal Permit Decision

A. County appeal procedure. Decisions of the County on a Coastal Permit (Section 22.70.060 – Decision on Coastal Permit) may be appealed to the Planning Commission and Board as follows: ~~provided by Chapter 22.114.~~

1. Decisions made by the Director or Zoning Administrator may be appealed to the Planning Commission, and decisions made by the Planning Commission may be appealed to the Board of Supervisors. However, the Director may refer an appeal directly to the Board of Supervisors.

2. An appeal may be filed by any aggrieved person.

3. All appeals for Coastal Permit decisions per 22.70.060 shall be filed with the Agency, in writing on a County appeal application form, prior to close of the Planning Division's public information counter on the tenth business day after the decision that is the subject of the appeal, and shall specifically state the pertinent facts of the case and the basis for the appeal.

4. When an appeal is filed, the Director shall prepare a staff report on the matter, and schedule the matter for a public hearing by the appropriate appeal authority. At the public hearing, the appeal authority may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal.

a. The appeal authority may affirm, affirm in part, or reverse the decision or determination that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with the provisions of the LCP.

b. When reviewing a decision on a Coastal Permit application, the appeal authority may adopt additional conditions of approval that may address other issues or concerns than the basis of the appeal.

c. The action from which an appeal is taken may be reversed or modified only by the affirmative vote of a majority of the full membership of the Planning Commission (i.e. four affirmative votes). The action or appellate determination from which an appeal is taken may be reversed or modified by the affirmative vote of a majority of the membership of the Board.

5. No such appeals shall require a fee.

B. Appeals to the Coastal Commission. An action on a Coastal Permits may be appealed to the Coastal Commission by an aggrieved person, including the applicant, or two members of the Coastal Commission, as follows:

1. Appealable Development. For purposes of appeal to the Coastal Commission, appealable development includes the following:

- (a) Development approved between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance;
- (b) Development approved, not included in paragraph (a) above, that is located on tidelands, submerged lands, public trust lands, within 100 feet of any coastal wetland, estuary, or coastal stream, or within 300 feet of the top of the seaward face of any coastal bluff;
- (c) Development approved that is not designated as the Principal Permitted Use (PP) by Tables 5-1, 5-2, or 5-3 in Chapter 22.62 – Coastal Zoning Districts and Allowable Land Uses (any use that also requires the granting of a Coastal Zone Variance shall not be considered a principal permitted use; land divisions are not the principally permitted use in any zoning district); and
- (d) ~~Any development approved or denied that~~ Development approved or denied that constitutes a major public works project (including a publicly financed recreational facility and/or a special district development) or a major energy facility.

2. **Filing.** Appeals must be filed in the office of the Coastal Commission prior to the close of business on the 10th working day after receipt by the Coastal Commission of the notice of final County action on the Coastal Permit that is the subject of the appeal. In the case of an appeal by an applicant or other aggrieved person, the appellant must exhaust all appeals to the County in compliance with Subsection A above (County Appeal Procedure) to be considered an aggrieved person, unless: ~~the County charges an appeal fee.~~

(1) The County requires an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for permits in the coastal zone.

(2) An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of person who may appeal a local decision.

(3) An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this Chapter.

(4) The County charges an appeal fee for the filing or processing of appeals.

3. **Appeal by Coastal Commissioners.** When two Coastal Commissioners ~~bring file~~ bring file an appeal ~~against a project that was approved of a County action~~ by other than the Board of Supervisors, the Board of Supervisors may elect to consider the appeal before any action by the Coastal Commission. The Board of Supervisors shall notify the Coastal Commission of its decision to consider such an appeal within 12 days of the County's receipt of notice of an appeal by two Coastal Commissioners. County action on an appealable project shall not be deemed final if the Board elects to consider the appeal. Notice and hearing on these appeals by the Board of Supervisors shall comply with Chapter ~~22.70.080~~ 22.114 Appeals. After action by the Board of Supervisors (or failure or refusal to act within sixty days of the County's receipt of the appeal), notice of final action shall be provided to the Coastal Commission pursuant to Section 22.70.090, which shall trigger a new Coastal Commission appeal period. If the decision of the Board modifies or reverses the previous County decision, the Commissioners may be required to file a new

appeal.

C. Stay of Approval. The operation and effect of an approved Coastal Permit shall be stayed until all applicable appeal periods expire or, if appealed, until all appeals, including any appeals to the Coastal Commission, have been exhausted.

22.70.090 – Notice of Final Action

Within 7 calendar days of a decision on an application for a Coastal Permit, the Director shall provide for public review a list of all decisions at the Community Development Agency's front counter and webpage. The list shall include a project description, the reviewing authority's decision, and procedures for appeal. After all local appeals have been exhausted, ~~W~~within 7 calendar days of a final County decision on an application for a Coastal Permit, the Director shall provide notice of the action by First Class mail to the Coastal Commission, and to any persons who specifically requested notice and provided a self-addressed stamped envelope or other designated fee covering mailing costs, and provided for public review at the Community Development Agency's front counter and webpage. The notice ~~shall include conditions of approval, written findings and the procedures for appeal of the County decision to the Coastal Commission,~~ shall be in two parts: (1) a cover sheet or memo summarizing the relevant action information and (2) materials that further explain and define the action taken. The cover sheet/memo shall be sent to all recipients of the notice, and the cover sheet/memo shall be sent in hard copy to the Coastal Commission, with supporting materials sent either via hard copy or electronically (see below).

A. Cover Sheet/Memo: The cover sheet/memo shall be dated and shall clearly identify the following information:

1. All project applicants and project representatives and their address and other contact information.
2. Project description and location.
3. County decision making body, County decision, and date of decision.
4. All local appeal periods and disposition of any local appeals filed.
5. Whether the County decision is appealable to the Coastal Commission, the reason why the development is or is not appealable to the Coastal Commission, and procedures for appeal to the Coastal Commission.
6. A list of all supporting materials provided to the Coastal Commission as part of the final local action notice (see Subsection (B) below).
7. All recipients of the notice.

B. Supporting Materials: The supporting materials shall include the following information:

1. Final adopted findings and final adopted conditions (must be provided hard copy).
2. Final staff report (must be provided hard copy).
3. Approved project plans (may be provided in hard copy and/or electronic format).
4. All other substantive documents cited and/or relied upon in the decision including any environmental review documents prepared in accordance with the California Environmental Quality Act, technical reports (geologic reports, biological reports, etc.), correspondence, etc. (may be provided in hard copy and/or electronic format)

A 10 working day appeal period to the Commission shall commence the day following receipt by the Commission of a valid Notice of Final Local Action that meets all requirements of this Chapter.

22.70.100 – Notice of Failure to Act

- A. Notification by applicant.** If the County has failed to act on an application within the time limits set forth in Government Code Sections 65950 et seq. (~~Approval of Development Permits~~), ~~thereby approving the development by operation of law, the~~ any person claiming a right to proceed in compliance with Government Code Section 65950 et seq. (i.e., the ~~a~~Applicant), shall notify the County and the Coastal Commission in writing of the claim that the development has been approved by operation of law. The notice shall specify the application which is claimed to be approved. Even if deemed approved in compliance with Government Code Section 65950, the ~~project shall development must~~ still comply with all applicable standards of the LCP and this Development Code.
- B. Notification by County.** Upon a determination that the time limits established in compliance with Government Code Section 65950 et. seq. have expired, and the notice required by Government Code Section 65950 et seq. has been provided by the Applicant, the Director shall, within five days of the determination, notify persons entitled to receive notice in compliance with Section 22.70.050 (Public Notice) that it has taken final action by operation of law in compliance with Government Code Section 65956. The Coastal Commission appeal period for ~~projects development~~ approved by operation of law shall begin only upon receipt of the County's final action notice (which notice shall comply with all requirements of Section 22.70.090) in the office of the Coastal Commission.

{BOS app-12/11/2012}

22.70.110 – Effective Date of Final Action

A final decision by the applicable review authority on an application for an appealable development shall become effective after the 10 working day appeal period to the Coastal Commission has expired or after the 21st calendar day following the final County action if no appeal to the Coastal Commission is filed, unless any of the following occur in which case the County action shall not be considered effective:

- A.** An appeal is filed in compliance with Section 22.70.080 – Appeal of Coastal Permit Decision.
- B.** The notice of final Coastal Permit approval does not meet the requirements of Section 22.70.090 (Notice of Final Action) or Section 22.70.100 (Notice of Failure to Act).
- C.** ~~The notice of final action is not received in the Coastal Commission office and/or distributed to interested parties in time to allow for the 10 working day appeal period within the 21 days after the County decision.~~

Where any of the above circumstances occur, the Coastal Commission shall, within five days of receiving notice of that circumstance, notify the County and the applicant that the effective date of the County action has been suspended.

22.70.120 – Expiration Date and Time Extensions

- A. Time limits, vesting, extensions.** Coastal permit time limits, vesting requirements, and extension provisions shall comply with the following: ~~with Section 22.70.050 – Time Limits and Extensions.~~

1. Time limits, vesting. Coastal permits not vested within three years of the date of approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained a Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval, or has recorded a Parcel or Final Map.

2. Extensions of time. Upon request by the applicant, the Director may extend the time for an approved permit to be vested.

a. Filing. The applicant shall file a written request for an extension of time with the Agency, at least ten days prior to the expiration of the permit, together with the filing fee required by the County Fee Ordinance.

b. Review of extension request. The Director shall determine whether the permit holder has attempted to comply with the conditions of the permit. The burden of proof is on the permittee to establish, with substantial evidence, that the permit should not expire. The Director may instead refer the extension request to the Commission for review.

3. Action on extension.

a. If the Director (or the Coastal Commission if the request is referred) determines that the applicant has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner, the Director (or Coastal Commission) may extend the permit for a maximum period of three years following the original expiration date. If the approval was granted concurrently with a Tentative Map, the maximum amount of time extensions would be determined by Section 22.84.140 (Extensions of Time for Tentative Maps).

4. Hearing on extension. If the Director finds that significant policy questions are at issue, including changed circumstances that may affect the consistency of the development with the policies of the LCP, the Director may refer the application to the Commission for a public hearing in compliance with Section 22.70.060 and noticing requirements of 22.70.050.

5. Coordination of expiration date among multiple permits. If a Building Permit, or other permit or entitlement, is issued during the time the Coastal Permit remains in effect, the expiration date of the Building Permit or other permit or entitlement shall be automatically extended to coincide with the expiration date of the Coastal Permit.

B. Findings. In addition to the requirements of Section 22.70.050~~120.A~~, Coastal Permit extensions may be granted by the Director upon a finding that the project continues to be in conformance with the requirements and objectives of the Marin County Local Coastal Program and Coastal Act as applicable.

C. Appeal. Coastal Permit extensions must be noticed (Section 22.70.090) and may be appealed in compliance with Section 22.70.080 (Appeal of Coastal Permit Decision).

[BOS app-12/11/2012]

22.70.130 – Amendments to Coastal Permits

A Coastal Permit may be amended in the same manner required for initial approval. Amendment requests shall be subject to the appeal provisions of Section 22.70.080 (Appeal of Coastal Permit Decision).

22.70.140 – Emergency Coastal Permits

In the event of an emergency, the Director may issue an emergency Coastal Permit ~~permit~~ to authorize emergency work in compliance with this Section, ~~and~~ Section 30624 of the Coastal Act and Section 13329 of Title 14 of the California Code of Regulations. The Director shall not issue an emergency Coastal Permit ~~permit~~ for any work to be conducted on any tidelands, submerged lands, ~~or~~ on public trust lands, whether filled or unfilled, or any other area within the Coastal Commission's retained coastal permit jurisdiction; requests for emergency work in these areas shall be referred to the Coastal Commission. The emergency approval shall conform to the objectives of this chapter and the Local Coastal Program. The emergency permit process is intended to allow for emergency situations to be abated through use of the minimum amount of temporary measures necessary to address the emergency in the least environmentally damaging, short- and long-term manner. The Director may request, at the applicant's expense, verification by a qualified professional of the nature of the emergency and the range of potential solutions to the emergency situation, including the ways such solutions meet these criteria.

- A. Application.** An application for an emergency Coastal Permit ~~permit~~ shall be filed with the Director in writing if time allows, or in person or by telephone if time does not allow.
- B. Required information.** The applicant shall report to the Director the following information, either during or as soon after the emergency as possible (and in all cases before the emergency Coastal Permit expires):
1. The nature and location of the emergency;
 2. The cause of the emergency, insofar as this can be established;
 3. The remedial, protective, or preventive work required to deal with the emergency; and
 4. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action.
 5. An application for an emergency shoreline protective device shall be accompanied by an engineering report as described in Section 22.64.060.A.4. If the applicant is unable to provide all such information due to the nature of the emergency, then the applicant shall provide at a minimum: (a) a description of what measures, if any, were taken in advance in order to mitigate the hazard and (b) an analysis of alternatives, including the "no action" alternative.
 6. All required technical reports and project plans.

The Director shall verify the facts, including the existence and nature of the emergency, as time allows.

- C. Notice.** The Director shall provide public notice of the proposed emergency work, and determine the extent and type of notice based on the nature of the emergency. The Director

shall notify the Executive Director of the Coastal Commission as soon as possible about potential emergency coastal permits, and shall report, in writing, to the Executive Director after the emergency coastal permit has been issued, the nature of the emergency, and the work involved.

D. Emergency permit approval. The Director may grant an emergency permit upon reasonable terms and conditions, including an expiration date, if the Director finds that:

1. An emergency (i.e., a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential services) exists that requires action more quickly than permitted by the procedures of this Article for a Coastal Permit, and the work can and will be completed within 30 days unless otherwise specified by the emergency permit;
2. Public comment on the proposed emergency action has been reviewed, if time allows; and
3. The proposed work is consistent with applicable Marin County Local Coastal Program policies.
4. The proposed work is the minimum amount of temporary development necessary to abate the emergency in the least environmentally damaging short- and long-term manner.

The decision to issue an emergency permit is at the sole discretion of the Director, provided that subsequent Coastal Permits required for the project shall comply with all applicable provisions of this Development Code.

E. Coastal Permit required. All emergency Coastal Permits shall expire ninety (90) days after issuance, unless extended for good cause by the Planning Director, such extension is limited as much as possible in duration, and such extension is subject to challenge provisions per Section 22.70.040. All emergency development pursuant to this section is considered temporary and must be removed and the affected area restored if it is not recognized by a regular coastal permit within 6 (six) months of the date of permit issuance, unless the Director authorizes an extension of time for good cause, where such extension of time may be challenged according to Section 22.70.040). Within 30 days of issuance of the emergency Coastal Permit ~~the notification required in Subsection A. (Application)~~, the applicant shall apply for a regular Coastal Permit. Failure to file the applications and obtain the required permits shall result in enforcement action in compliance with Chapter ~~22.122~~ 22.70.175 (Enforcement)

22.70.150 – Coastal Zone Variances

A. This Section provides procedures for the adjustment from the development standards of Article V of this Development Code only when, because of special circumstances applicable to the property, including location, shape, size, surroundings, or topography, the strict application of this Article denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts. Any Coastal Zone Variance granted shall be subject to conditions that will ensure that the Variance does not constitute a granting of special privilege(s) inconsistent with the limitations upon other properties in the vicinity and zoning district in which the property is situated.

Coastal Zone Variances provide relief from standards relating to height, floor area ratio, and yard setbacks. Coastal Zone Variances shall not ~~cannot~~ be granted for relief from Land Use Plan

Policies, use limitations or minimum lot size and density requirements.

1A. Filing. An application for a Coastal Zone Variance shall be submitted, filed, and processed in compliance with and in the manner described in Chapter 22.70.030 (Coastal Permit Filing, Initial Processing) ~~22.40 (Application Filing and Processing, Fees)~~. It is the responsibility of the applicant to establish evidence in support of the findings required by Section 22.70.070 – Required Findings.

2B. Project review procedure. Each application shall be analyzed by the Agency to ensure that the application is consistent with the purpose and intent of this Section.

3C. Action on Variances. Decisions on Coastal Zone Variances shall be issued by the Director or the same review authority that issues the decision on the Coastal Permit for the project.

4D. Notice of action and/or hearing date. Administrative decisions and public hearings on a proposed Coastal Zone Variance application shall be noticed in compliance with Chapter 22.70.050 ~~22.118 (Notices, Public Hearings, and Administrative Actions)~~.

22.70.160—Coastal Zone Variance Exemptions

~~In situations where development is proposed within the footprint of an existing structure the Director may ministerially find a project exempt from Coastal Zone Variance requirement subject to the following:~~

~~**A.** The cubical contents of the structure shall not be increased with the exception of minor dormers and bay windows which provide headroom or circulation or projects that are addressed in Section 22.54.040.C, but do not add to the bulk and mass of the structure.~~

~~**B.** The floor area ratio may increase, not to exceed 35 percent maximum, or 300 square feet, whichever is more restrictive, except that such area limitations do not apply to circumstances in flood zones that are addressed in Section 22.54.040.C.~~

~~**C.** The floor area ratio may increase above 30 percent if the increase in floor area is due to a federal or County requirement that an existing structure be raised above the base flood elevation. In this instance, the finished floor of the first level above the base flood elevation shall not be more than 18 inches above the base flood elevation. Floor area beneath proposed additions does not qualify for this exemption.~~

~~**D.** Existing legal non-conforming setbacks may be maintained if a structure is being raised to conform to a federal or County requirement that an existing structure be raised above the base flood elevation. In this instance, the finished floor of the first level above the base flood elevation shall not be more than 18 inches above the base flood elevation. Development beneath proposed additions does not qualify for this exemption.~~

~~**E.** The height of a roof of an existing structure that encroaches into a required setback is being lowered by any height or is being raised by not more than three feet in height above the existing roof, or to a maximum of 25 feet above grade, whichever is more restrictive.~~

~~F. The project shall be subject to Coastal Permit, in compliance with this Article.~~

22.70.170---Decision and Findings B. Decision and Findings on Coastal Zone Variance:

Following notice for an administrative Coastal Zone Variance, or a public hearing for a Public Hearing Coastal Zone Variance, the Review Authority shall issue a notice of decision in writing with the findings upon which the decision is based, in compliance with state law (Government Code Section 65906). The Review Authority may approve an application, with or without conditions, only if all of the following findings are made:

1A. There are special circumstances unique to the property (e.g., location, shape, size, surroundings, or topography), so that the strict application of this Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.

2B. Granting the Variance does not ~~allow a use or activity which is not otherwise expressly authorized by the regulations~~ grant relief from the Land Use Plan Policies, use limitations or minimum lot size and density requirements governing the subject parcel.

3C. Granting the Variance does not result in special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the real property is located.

4D. Granting the Variance will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

C. Appeal of Coastal Permit For Development Requiring a Coastal Zone Variance. Any development that also requires granting of a Variance shall not be considered a Principally Permitted Use per 22.70.080(B)(1)(c) and approval of any coastal permits for development that also requires a coastal zone variance shall be appealable in compliance with Section 22.70.080.

22.70.160. Nonconforming Uses and Structures.

A. Application. This section shall apply to: (1) any existing and lawfully established and authorized use of land; or (2) any existing and lawfully established and authorized structures, that do not conform to the policies and development standards of the certified LCP. Development that occurred after the effective date of the Coastal Act or its predecessor, the Coastal Zone Conservation Act, if applicable, that was not authorized in a coastal permit or otherwise authorized under the Coastal Act, is not lawfully established or lawfully authorized development, is not subject to the provisions of Section 22.70.160, but is subject to the provisions of Section 22.70.030 (Coastal Permit Filing, Initial Processing).

B. Burden to Establish Legal Status on Owner. Nonconforming uses and structures may be continued only in conformity with the provisions of this Section. The owner of property on which a nonconforming use or structure is claimed shall have the burden of proof in establishing to the satisfaction of the Director the legal nonconforming status claimed. The Director may charge a fee, as established in the County Fee Schedule, for the review of evidence submitted to meet the owner's burden of proof.

C. Nonconforming Uses. A nonconforming use means a use of a structure or land that was legally established and maintained prior to the adoption, revision, or amendment of the

current LCP, but does not conform to the current LCP use and/or density standards. A nonconforming use is not a nonconforming structure. Nonconforming uses shall not be expanded nor intensified. For nonresidential uses, intensification shall include, but not be limited to, any change or expansion which is determined by the Director likely to result in a significant new or increased impact due to potential traffic generation, noise, smoke, glare, odors, hazardous materials, water use, and/or sewage generation. For residential uses, intensification shall be defined as an increase in the number of bedrooms. If any nonconforming use is abandoned for a continuous period of 12 months or longer, the use shall relinquish its legal nonconforming status and any subsequent use of such land shall be in conformity with the regulations specified by the LCP.

- D. Nonconforming Structures.** A nonconforming structure means a structure that was lawfully erected prior to the adoption, revision, or amendment of the current LCP, but that does not conform with standards for lot coverage, setbacks, height, number of stories, distance between structures, or floor area ratio prescribed in the current LCP. Nonconforming structures may be repaired and maintained. However, repair and maintenance involving demolition and/or replacement of 50 percent or more of the nonconforming structure, or that constitutes “Redevelopment (coastal)” as defined in Chapter 22.130, is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. The 50 percent calculation shall be cumulative, so that any repair and maintenance of a structure after the effective date of this ordinance shall be counted towards the total calculation figure. For blufftop and shoreline structures, see Subsection F, below.
- E. Additions and Improvements.** Improvements which enlarge and/or expand a nonconforming structure, including additions, may be authorized, provided that the additions and/or improvements themselves comply with the current policies and standards of the LCP. However, improvements involving demolition and/or replacement of 50 percent or more of the existing structure, or that constitute “Redevelopment (coastal)” as defined in Chapter 22.130, are not permitted unless the entire structure is brought into conformance with all applicable LCP policies. The 50 percent calculation shall be cumulative over time from the date of certification of this ordinance. For blufftop and shoreline structures, see Subsection F, below.
- F. Blufftop and Shoreline Development.** For nonconforming structures located on a blufftop or along the shoreline, including such structures that are nonconforming with respect to required blufftop and shoreline setbacks, such structures may be repaired, maintained, and improved consistent with Subsections D and E, above. However, when the repair, maintenance, and/or improvement constitutes “Redevelopment, Coastal (coastal)”, as defined in Chapter 22.130, the repair, maintenance, and/or improvement is not permitted unless the entire structure is brought into conformance with all applicable LCP policies.
- G. Natural Disasters.** If a nonconforming use or structure is destroyed by natural disaster, replacement shall be subject to provisions of 22.68.050(C) in accordance with LUP Policy C-EH-24 (Permit Exemption for Replacement of Structures Destroyed by Disaster).

22.70.175---Violations of Coastal Zone Regulations and Enforcement of LCP Provisions and Penalties (Coastal)

A. Any person who performs or undertakes development in violation of the LCP or inconsistent with any coastal permit previously issued may, in addition to any other penalties, be civilly liable in accordance with the provisions of Public Resources Code section 30820.

B. In addition to all other available remedies, the County may seek to enforce the provisions of the LCP and the Coastal Act pursuant to the provisions of Public Resources Code section 30800-30822.

C. Development may only be undertaken on a legal lot.

D. No coastal development permit application (including all coastal permits, coastal permit exclusions and exemptions, and de minimis waivers) shall be approved unless all unpermitted development on the property affected by the application also is proposed to be removed or retained consistent with the requirements of the certified LCP, and the approval includes full resolution of violations associated with the property affected by the application.

22.70.180 – Potential Takings ~~Economic~~ Evaluation

If the application of the policies, standards or provisions of the Local Coastal Program ~~regarding use of property designated as Environmentally Sensitive Habitat Area (ESHA to proposed development~~ would ~~likely~~ potentially constitute a taking of private property, then a ~~usedevelopment~~ that is not consistent with the ~~ESHA provisions of the LCP shall~~ may be allowed on the property to avoid a taking, provided such ~~use-development is as~~ consistent as possible with all ~~other~~ applicable policies and is the minimum amount of development necessary to avoid a taking as determined through a takings evaluation, including an ~~economic~~ evaluation of the materials required to be provided by the applicant as set forth below. The applicant shall supplement their application materials to provide the required information and analysis as specified below.

A. Filing. The ~~economic~~ evaluation shall, at a minimum, include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. All other nearby property owned by the Applicant may also be considered. Before any decision on a coastal development permit, the applicant shall provide the following information, unless the Director determines that one or more of the particular categories of information is not relevant to the analysis:

1. The date the applicant purchased or otherwise acquired the ~~properties~~, and from whom.
2. The purchase price paid by the applicant for the ~~properties~~.
3. The fair market value of the ~~properties~~ at the time the applicant acquired ~~it-them~~, describing the basis upon which the fair market value is derived, including any appraisals done at the time.
4. The general plan, zoning or similar land use designations applicable to the ~~properties~~ at the time the applicant acquired ~~it-them~~, as well as any changes to these designations that occurred after acquisition.
5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection (4) ~~&~~ above, that applied to the ~~properties~~ at the time the applicant acquired ~~it-them~~, or which have been imposed

after acquisition.

6. Any change in the size of the properties since the time the applicant acquired ~~it~~ them, including a discussion of the nature of the change, the circumstances and the relevant dates.
7. A discussion of whether the applicant has sold or leased a portion of, or interest in, the properties since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the properties that were sold or leased.
8. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the properties of which the applicant is aware.
9. Any offers to buy all or a portion of the properties which the applicant solicited or received, including the approximate date of the offers and offered price.
10. The applicant's costs associated with the ownership of the properties, annualized for each of the last five (5) calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.
11. Apart from any rents received from the leasing of all or a portion of the properties, any income generated by the use of all or a portion of the properties over the last five (5) calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.
12. Any additional information that the County requires to make the determination.

B. Evaluation. To evaluate whether application of the LCP ~~a restriction~~ would potentially result in a taking ~~not provide an economically viable use of property as a result of the application of the policies and standards contained in the LCP regarding use of property designated as ESHA,~~ an applicant shall provide information about coastal resources present on the properties and/or affected by the application sufficient to determine whether all of the properties, or which specific area of the properties, is subject to the restriction on development, so that the scope and nature of development that could be allowed on any portions of the properties that are not subject to the restriction can be determined.

Based upon this analysis, the least environmentally damaging feasible alternative shall be identified. Impacts to ~~ESHA~~ coastal resources that cannot be avoided through the implementation of siting and design alternatives shall be mitigated to the maximum extent feasible, with priority given to on---site mitigation. Off---site mitigation measures shall only be approved when it is not feasible to mitigate impacts on---site. Mitigation shall not substitute for implementation of the feasible project alternative that would avoid LCP inconsistencies, including adverse coastal resource impacts to ESHA.

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 avoid a taking ~~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 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 development consistent allowed by with the LCP policies, standards or and provisions would provide an economically viable use ~~avoid a taking~~ of the applicant's property.
2. The use proposed by the applicant is consistent with the applicable zoning.
3. The use and project design, siting, and size are the minimum necessary to avoid a

- taking.
4. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified LCP other than the provisions for which the exception(s) is(are) requested-necessary to avoid a taking.
 5. The development will not ~~be~~ result in a public nuisance. If it would be a public nuisance, the development shall be denied.

[BOS app. 10/2/2012]

22.70.190 – Land Divisions

This section shall provide standards for the issuance of coastal permits for land divisions. Land division is a type of development, defined to include subdivision (through parcel map, tract map, grant deed), lot line adjustments, redivisions, mergers, and certificates of compliance.

A. Certificates of Compliance:

1) For issuance of a certificate of compliance pursuant to Government Code section 66499.35 for a land division that occurred prior to the coastal permits being required (i.e., prior to February 1, 1973 for certain properties pursuant to the Coastal Initiative (Proposition 20) of 1972, and prior to January 1, 1977 otherwise under the Coastal Act of 1976), where the parcel was created in compliance with the law in effect at the time of its creation and the parcel has not been subsequently merged or otherwise altered, no coastal development permit is required.

2) For issuance of a certificate of compliance pursuant to Government Code section 66499.35 for a land division that occurred prior to coastal permits being required (i.e., prior to February 1, 1973 for certain properties pursuant to the Coastal Initiative (Proposition 20) of 1972, and prior to January 1, 1977 otherwise under the Coastal Act of 1976), where the parcel was not created in compliance with the law in effect at the time of its creation, or the parcel has subsequently been merged or altered, a coastal development permit that complies with the certified LCP (or the Coastal Act if located in the Coastal Commission's permitting jurisdiction) is required to legalize the parcel.

3) For issuance of a certificate of compliance pursuant to Government Code section 66499.35 for a land division that occurred after the effective date of the Coastal Act, a coastal development permit that complies with the certified LCP (or the Coastal Act if located in the Coastal Commission's permitting jurisdiction) is required to legalize the parcel.

B. Criteria for Land Divisions

1) Land divisions shall be prohibited if located outside of designated village limit boundaries and within an area found to have limited public service capacities (as specified by Section 22.64.140).

2) Land divisions shall be designed to minimize impacts on coastal resources. A land division shall not be approved if it creates a parcel that would not contain an identified building site that can be developed consistent with all policies of the certified LCP.

3) The minimum lot size in all land use designations shall not allow land divisions, except mergers and lot line adjustments, where the created parcel would be smaller than

the average size of surrounding legal parcels.

4) Land divisions outside existing developed areas shall be permitted only in areas with adequate public services, and where they will not have a significant adverse effect, either individually or cumulatively, on coastal resources. In addition, land divisions outside village limit boundaries shall only be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding legal parcels, except that lease of a legal parcel at a level of agricultural use that will sustain the agricultural capacity of the site is not prohibited.

5) Land divisions shall be designed to cluster development in order to minimize site disturbance, landform alteration, and fuel modification.

6) Lot line adjustments are limited to four or fewer parcels. A lot line adjustment shall not be approved or conditionally approved unless the existing parcels are legal and the new parcels resulting from the lot line adjustment will conform to the Local Coastal Program. In addition to all applicable LCP standards, a lot line adjustment shall only be approved with a finding that the resulting parcels protect coastal resources in a manner equal to or better than their existing configuration.

7) The reviewing authority shall not approve a land division if any parcel being created would not be consistent with the certified LCP, including the maximum density designated by the Land Use Plan.

8) Land divisions are not the principally permitted use in any zoning district.

Article VIII

Development Code Definitions

Chapter 22.130 – Definitions

Sections:

- 22.130.010 – Purpose of Chapter
- 22.130.020 – Applicability
- 22.130.030 – Definitions of Specialized Terms and Phrases

22.130.010 – Purpose of Chapter

This Chapter provides definitions of terms and phrases used in this Development Code that are technical or specialized, or that may not reflect common usage.

22.130.020 – Applicability

If any of the definitions in this Chapter conflict with definitions in other chapters of the Marin County Code, except for Article V, Chapters 22.60 – 22.70 in which case which any definition contained therein shall prevail, these definitions shall prevail for the purposes of this Development Code. If a word used in this Development Code is not defined in this Chapter, or other Titles of the County Code, the most common dictionary definition is presumed to be correct.

22.130.030 – Definitions of Specialized Terms and Phrases

Definitions are listed in alphabetical order.

A. Definitions, "A."

Accessory Retail Uses (land use). This land use consists of the retail sale of various products (including food) in a store or similar facility that is located within a health care, hotel, office, or industrial complex, for the purpose of serving employees or customers, and is not visible from a public street. These uses include pharmacies, gift shops, food service establishments within hospitals, convenience stores and food service establishments within hotels, and office and industrial complexes.

Accessory Structure. A structure that is physically detached from, secondary and incidental to, and commonly associated with the primary structure or use. Physically detached means independent of any type of substantial connection with the primary structure. A substantial connection means having a continuous foundation and a connecting roof.

Acres, Gross and Net. See "Lot Area."

Adult Entertainment Establishment (land use). This land use consists of any adult bookstore, adult hotel or motel, adult motion picture arcade, adult motion picture theater, cabaret, sexual encounter center, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," but not including those uses or activities, the regulation of which is preempted by state law.

Affordable Housing. Dwelling units that are income restricted and rented or sold at rates that are affordable to households with income qualifying as low, very low or extremely low income, as described in Chapter 22.22 (Affordable Housing Regulations) or Chapter 22.24 (Affordable Housing Incentives) and defined by Health and Safety Code Sections 50052.5 and 50053. Affordable Housing includes Transitional and Supportive housing consistent with qualifying income requirements.

Affordable Ownership Cost. Figure at which affordable housing must be provided for purchase, which is calculated as annual housing costs, during the first calendar year of a household's occupancy, including mortgage payments, property taxes, homeowners insurance, and homeowners association dues, if any, which do not exceed the following:

1. For inclusionary units required by Chapter 22.22, annual housing costs cannot exceed 30 percent of 60 percent of area median income, adjusted for household size.
2. For affordable housing that qualifies a project for a state density bonus, annual housing costs cannot exceed the following:
 - (a) for moderate income households: 35 percent of 110 percent of area median income, adjusted for household size.
 - (b) for low income households: 30 percent of 70 percent of area median income, adjusted for household size.
 - (c) for very low income households: 30 percent of 50 percent of area median income, adjusted for household size.

Affordable Rent. Annual rent, including utilities and all fees for housing services, which does not exceed the following:

1. For inclusionary units required by Chapter 22.22, annual rent cannot exceed 30 percent of 50 percent of median area income, adjusted for household size.
2. For affordable housing that qualifies a project for a state density bonus, annual rent cannot exceed the following:
 - (a) for low income households: 30 percent of 60 percent of area median income, adjusted for

household size.

- (b) for very low income households: 30 percent of 50 percent of area median income, adjusted for household size.

Agency. The Marin County Community Development Agency.

Agent. A person authorized in writing by the property owner to represent and act for a property owner in contacts with County employees, committees, Commissions, and the Board, regarding matters regulated by this Development Code.

Aggrieved Person (coastal). Any person who, in person or through a representative, appeared at a public hearing of the Coastal Commission or County of Marin in connection with a decision or action appealed, or who, by other appropriate means prior to a hearing, informed the Coastal Commission or County of Marin of the nature of his concerns or who for good cause was unable to do either. "Aggrieved person" includes the applicant for a permit.

Agricultural Accessory Activities~~y~~ (land use) (coastal). ~~This land use consists of accessory~~ Activities customarily accessory and incidental to, in support of, compatible with, and, within the C-APZ zone, necessary for agricultural operations-production, and which involve agricultural products produced predominantly on site or elsewhere in Marin County, including:

- | | |
|--|---|
| -corn shelling | -grain cleaning and grinding |
| -custom milling of flour, feed and grain | -hay baling and cubing |
| -drying of corn, rice, hay, fruits, and vegetables | -pre-cooling and packaging of fresh or farm dried fruits and vegetables |
| -sorting and packaging of fruits and vegetables | -tree nut hulling and shelling |
| | -preparation and packaging of animal byproduct (such as eggs and wool) produced on site |

Any of the above activities performed in the field with mobile equipment not involving permanent structures are included under the definition of "Crop Production".

Agricultural Accessory Structures (land use) (coastal). ~~This land use consists of an u~~ Uninhabited structures that are customarily accessory and incidental to, in support of, compatible with, and, within the C-APZ zone, necessary for agricultural production, and that are for the storage of farm animals, implements, supplies or products, and that contains no residential use, is-are not accessory to a residential use, and is-are not open to the public, including:

- | | |
|--------------------------|---|
| - barns | - pens |
| - coops | - silos |
| - corrals | - stables |
| - grain elevators | - facilities for cleaning, drying, pre-cooling, and packaging of fruits and vegetables produced on site |
| - facilities for milking | - greenhouses |
| - fences | - utility facilities |
| | - other similar structures |

~~Does~~ Agricultural accessory structures do not include commercial greenhouses (which are under "Plant Nurseries") or structures for agricultural processing activities (which are under "Agricultural Processing") or retail sales of agricultural products.

[BOS app. 2/26/2013]

Agricultural Production Activities, Ongoing (Coastal). Existing legally established agricultural production activities, including all ongoing grading and routine agricultural cultivation practices (e.g. plowing, tilling, planting, harvesting, and seeding), which have not been expanded into never before used areas and have not been discontinued for more than the previous 10 years. Agricultural production activities may include the conversion of grazing to crop production or other ongoing activity involving a change in the intensity of use of land or water (such as for ongoing rotational grazing and crop farming) if the ongoing production activity has been part of a regular pattern of agricultural practices that has not been discontinued for more than the previous 10 years. If the ongoing production activity has been discontinued for more than the previous 10 years, the permit issuing authority may allow an Applicant to overcome the presumption that the agricultural production activity is no longer ongoing if the Applicant demonstrates his or her ongoing intention to reinstate the agricultural production activity based on the history of agricultural production on the property, the long-term investment in the agricultural production activity on the property, and the existence of infrastructure to support the agricultural production activity.

Conversion of grazing to crop production or any other new or expanded activity involving grading or a change in the intensity of use of land or water that has not been part of a regular pattern of agricultural practices or has been discontinued for more than the period of time prescribed herein is not an ongoing agricultural production activity but rather constitutes new development requiring a coastal permit consistent with Chapters 22.68 and 22.70, unless such development is categorically excluded by a Coastal Commission approved Categorical Exclusion Order.

Agricultural District or Zone. Any of the agricultural zoning districts established by Chapter 22.08 (Agricultural and Resource-Related Districts), or Coastal Zoning Districts established by Article V (Coastal Zones – Permit Requirements and Development Standards), including A (Agriculture and Conservation), A2 (Limited Agriculture), ARP (Agricultural, Residential Planned), C-APZ (Coastal, Agricultural Production Zone), and C-ARP (Coastal, Agricultural, Residential Planned).

Agricultural Dwelling Unit (coastal). A farmhouse, intergenerational house, or agricultural worker housing located in the C-APZ district.

Agricultural Homestays Facility (coastal). An agriculturally oriented overnight accommodation operation-facility that meets all of the following requirements: (a) Has not more than five guest rooms and accommodates not more than 15 guests; (b) Provides overnight transient accommodations; and (c) Serves food only to its registered guests and serves meals at any time, and includes the price of food in the price of the overnight transient occupancy accommodation; and (d) occurs only within otherwise allowable agricultural dwelling units and not within additional separate structures.

Agricultural Processing (land use). ~~Agricultural Processing~~ This land use consists of the processing of harvested crops and other agricultural products, including the following:

- production of butter, cheese, and other dairy products
- food oil production, including olive oil
- shellfish processing
- processing of milk
- wine production
- milling
- processing of honey
- processing of fruit products

Agricultural processing Also includes structures used in connection with the above activities.

Agricultural Production (land use) (coastal). ~~This land use consists of the~~ Raising of animals used in farming or the growing and/or producing of agricultural commodities for commercial purposes, including the following and substantially similar uses of an equivalent nature and intensity:

1. Livestock and poultry - cattle, sheep, poultry, goats, rabbits, and horses provided that horses are accessory and incidental to, in support of, and compatible with the property's agricultural production.
2. Livestock and poultry products (such as milk, wool, eggs).
3. Field, fruit, nut, and vegetable crops – hay, grain, silage, pasture, fruits, nuts, seeds, and vegetables.
4. Nursery products - nursery crops, cut plants.
5. Aquaculture and mariculture
6. Viticulture
7. Vermiculture
8. Forestry crops (not including Timber Harvesting)
9. Commercial gardening
10. Beekeeping

Agricultural Production and Stewardship Plan (coastal). A plan that identifies existing and proposed agricultural uses and resources for a property. The intent of these plans is to demonstrate the following: (1) the long-term agricultural use of the property will be preserved; (2) agricultural infrastructure has been established or will be enhanced; (3) the proposed development triggering plan preparation is compatible with protection and/or enhancement of agricultural uses ~~proposed in connection with the residence are appropriate to the site~~; (4) sound land stewardship has been implemented or will be enacted; and (5) at least 95% of the ~~usable land of the~~ property will be engaged in agricultural production.

Agricultural Retail Sales Facility/Farm Stand (coastal). A temporary or permanent structure used for the display and sale of agricultural products.

Agricultural Worker. An employee who is engaged in services associated with an agricultural use, including: cultivation and tillage of soil; dairying; the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; and the preparation, delivery, or storage of any agricultural or horticultural commodity for market.

Agricultural Worker Housing. Any attached or detached dwelling unit ~~used~~ required to house agricultural workers and their family members, including temporary mobile homes. For the purpose of calculating density, no more than one food preparation area shall be provided for each agricultural worker housing unit.

Agriculture (coastal). This land use consists of agricultural production for commercial purposes, and the facilities that are accessory and incidental to, in support of, ~~and compatible with, and, within the C-APZ zone, necessary for~~ the property's agricultural production; ~~including~~ agricultural accessory structures and agricultural accessory activities, agricultural dwelling units one farmhouse per legal lot, intergenerational housing, agricultural worker housing, agricultural product sales and processing, non-profit and owner-operator conducted agricultural tours, and agricultural homestay facilities.
[BOS app. 10/2/2012]

Airpark (land use). This land use consists of airfields, landing strips, and/or heliports, in compliance with the regulations of the Federal Aviation Administration (FAA), and California Division of Aeronautics.

Alley. A public or private roadway, not intended for general vehicle traffic circulation, that provides secondary vehicle access to the rear or side of lots having other public street frontage.

Alteration. Any construction or physical change in the internal arrangement of rooms or the supporting members of a structure, or a change in the external appearance of any structure, not including painting. For the purposes of Coastal Redevelopment, "alteration" includes additions, exterior and/or interior renovations, repair and maintenance, and demolition associated with existing structures.

Animal Sales Lot. See "Livestock Operations, Sales Lots, Feedlots, Stockyards."

Antennas. See "Telecommunications Facilities."

Antiquated Subdivision. *(Definition under Planning Commission review)*

Apartment. See "Multi-Family Housing."

Appealable Area. The areas described by Public Resources Code Sections ~~30519.b and 30603.a.1 and a.2,~~ within which a County decision to approve a Coastal Permit for development may be appealed to the California Coastal Commission.

Appealable Development (coastal): Any local action on a Coastal Permit application for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; and/or (3) on tidelands, submerged lands, and public trust lands. In addition, any local action on a CDP application for the following types of development are also appealable: (1) approval of Coastal Permits for any type of development that is not designated as the principal permitted use under the zoning ordinance; and (2) approval or denial of any Coastal Permits for any development which constitutes a major public works project (including a publicly financed recreational facility) or a major energy facility.

Appeals Area Maps. The official Coastal Commission certified maps on file with the Community Development Agency which identify areas within the Coastal Zone where County decisions on Coastal Permit applications may be appealed to the Coastal Commission. Maps are illustrative but not determinative and Title 14 CCR Section 13577 is also utilized to determine the boundaries of appeal areas.

Applicant. Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks County permits and approvals.

Applicant (coastal). Any "person" applying for a coastal permit as required by Public Resources Code Section 30600 in order to undertake development. See definition of person.

Approval. An official sanction that includes both approval and approval with conditions.

Aquaculture (land use). ~~This land use consists of the raising and harvesting of aquatic organisms, including shellfish, mollusks, crustaceans, kelp, and algae. A form of agriculture as defined in Section 17 of the Fish and Game Code. Aquaculture products are agricultural products, and aquaculture facilities and land uses shall be treated as agricultural facilities and land uses in all planning and permit-issuing decisions.~~

Arborist. An arborist is 1) a person currently certified by the Western Chapter of the International Society of Arboriculture as an expert on the care of trees; 2) a consulting arborist who satisfies the requirements of the American Society of Consulting Arborists; or 3) such other qualified professionals who the Director determines has gained through experience the qualifications to evaluate (a) tree health and necessary steps to protect same, and/or (b) safety issues with tree health and configuration, including to identify when hazardous tree removal may be necessary, including developing recommendations on when and how to remove or replace trees.

Architectural Deviation (non-coastal). A discretionary land use permit established by Chapter 22.46 (Floating Home Adjustments and Deviations) to evaluate floating homes that are between 16 and 20 feet in height. The review considers the appropriateness of project design as it relates to the aesthetics and scale of neighboring floating homes, as well as views within and to the marina.

Area Median Income. Median income for Marin County as published by the U.S. Department of Housing and Urban Development (HUD) or the California Department of Housing and Community Development (HCD) with adjustments for household size. Applicable schedule to be applied at the discretion of the Director.

Ark. Any vessel, boat, craft, or structure originally designed to float that is now permanently grounded or supported by a foundation or piling.

Armoring Project (Coastal). ~~The placement of natural rock or rock-like structures or the construction of a wall to fortify a topographical feature to protect it from erosion.~~
[BOS app. 7/30/2013]

Assessor's Parcel. A unit of real property recognized by the Marin County Assessor's Office for tax purposes, mapped and assigned an Assessor's Parcel Number by the Assessor's Office.

Auto, Mobile Home, Vehicle, Parts Sales (land use). This land use consists of the retail sale and/or rental of the following (vehicles may be new or used):

- | | |
|----------------------------|-------------------------------------|
| - automobiles | - recreational and utility trailers |
| - boats | - repair shops with new car |
| - campers | - snowmobiles |
| - dealerships | - tires |
| - golf carts | - trucks |
| - jet skis | - vans |
| - mobile homes | - vehicle accessories |
| - motorcycles | - vehicle parts |
| - motorized farm equipment | |

Does not include: bicycle and moped sales (see "Retail Stores, General Merchandise"); tire recapping establishments (see "Repair and Maintenance - Vehicle"); businesses dealing exclusively in used parts, (see "Recycling, Scrap and Dismantling Yards"); or "Service Stations," which are separately defined.

Automatic Teller Machine (ATM) (land use). This land use consists of machines used by bank and financial service patrons for conducting transactions, including deposits, withdrawals and fund transfers, without contact with financial institution personnel. The machines may be located at or within banks, or in other locations, in compliance with this Development Code.

Automobile Dismantling Yard. See "Recycling Facilities, #6, Scrap, and Dismantling Yards."

Automobile Repair. See "Repair and Maintenance, Vehicle."

Avian Migratory Concentration Point. Avian migratory concentration point refers to both the place of departure and the destination of birds from one region to another, especially as a result of seasonal or periodic movement in order to breed, seek food, or to avoid unsuitable weather conditions.

B. Definitions, "B."

Banks and Financial Services (land use). This land use consists of financial institutions including:

- banks and trust companies
- credit agencies
- holding (but not primarily operating) companies
- lending and thrift institutions
- other investment companies
- securities/commodity contract brokers and dealers
- security and commodity exchanges
- vehicle finance (equity) leasing agencies

See also, "Automatic Teller Machine," above.

Bars and Drinking Places (land use). This land use consists of the sale of alcoholic beverages for on-site consumption, not as part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May include entertainment (e.g., live music and/or dancing). May also include beer brewing as part of a microbrewery, and other beverage tasting facilities.

Base Density. This definition applies only to projects that seek a density bonus. The base density is either 1) the number of units/lots that are calculated using the minimum lot area or maximum density associated with the zoning district after taking into consideration all building constraints (e.g. including LCP requirements for steep slopes, buffers for wetlands and sensitive habitats, and setbacks for geologic hazards); or, outside the coastal zone, 2) the maximum density allowed by the Built Environment Element of the Countywide Plan including provisions applicable to sites with sensitive habitat, or located within the Ridge and Upland Greenbelt, or lacking public water or sewer systems, or if the project will result in an exceedance to the Level of Service Standards. Where the density allowed outside the coastal zone under the zoning ordinance is inconsistent with the density allowed under the Built Environment Element, the Built Environment Element density shall prevail.

Basement. A story which is partly or completely below grade.

Bay Window. A window enclosure that projects from an exterior wall and is at least 18 inches above the adjoining finished floor as measured to the lowest horizontal plane of the projection. To be considered a bay window for the purposes of allowed exemptions and floor area, the windowed enclosure shall not occupy an area greater than 25 percent of any individual wall element of the building for each story or extend more than 30 inches from the exterior wall.

Beach (coastal). The expanse of sand, gravel, cobble or other loose material that extends landward from the low water line to the place where there is distinguishable change in physiographic form, or to the line of permanent vegetation. The seaward limit of a beach (unless specified otherwise) is the mean low water line.

Bed and Breakfast Inns (land use). This land use consists of providing up to five guest bedrooms for overnight lodging, where the use is clearly secondary and incidental to the use of the property as a single-family residence, or, in agricultural zoning districts and agricultural dwelling units, clearly secondary and incidental to the use of the property for agricultural production. County requirements applicable to Bed and Breakfast Inns are in Section 22.32.040 (Bed and Breakfast Inns), and applicable Health Department regulations, and the LCP. A Bed and Breakfast Inn with more than five guest rooms is considered a hotel or motel, and is not permitted in a residential or agricultural zoning district. Refer to the definition of "Room Rental" to distinguish between a Bed and Breakfast Inn and room rental in a "boarding house" situation.

Below Market Rate. Housing that is sold or rented at a price which is below the prevailing rate for equivalent housing units within the same community.

Beneficial Use of Water (coastal). Use of waters of the state including domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

Best Management Practices (BMPs) (coastal). Methods that have been determined to be the most effective, practical means of preventing, ~~or~~ reducing, and treating pollutants found in runoff from non-point sources, such as pollutants carried by urban stormwater and irrigation runoff.

Beverage Production (land use). This land use consists of manufacturing facilities including bottling plants, breweries, coffee roasting, soft drink production, and wineries. Does not include milk processing; see "Food Products." May include tasting and accessory retail sales of beverages produced on site. A tasting facility separate from the manufacturing facility is included under the definition of "Bars and Drinking Places" if alcoholic beverages are tasted, and under "Restaurant" if beverages are non-alcoholic.

Billboard. Any sign advertising, indicating, or identifying a use, activity, or other entity not on the same premises as the sign.

Block. A group of lots surrounded by streets or roads, or streets or roads and railroad right-of-way, mean high tide line or unsubdivided acreage.

Blue Line Stream. A watercourse shown as a blue line (perennial or intermittent) on the most recent appropriate USGS data.

Bluff (coastal). ~~A high bank or bold headland with a broad, precipitous, sometimes rounded cliff face overlooking a plain or body of water. A bluff may consist of a steep cliff face below and a more sloping upper bluff above. Those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and those bluffs the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (2).~~

Bluff Edge (coastal). The upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the bluff is rounded away from the face of the bluff as a result of erosional processes related to the presence of the steep bluff face, the bluff line or edge shall be defined as that point nearest the bluff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the bluff. In a case where there is a steplike feature at the top of the bluff face, the landward edge of the topmost riser shall be taken to be the bluff edge. Bluff edges typically retreat landward due to coastal erosion, landslides, development of gullies, or by grading (cut). In areas where the bluff top or bluff face has been cut or notched by grading, the bluff edge shall be the landwardmost position of either the current or historic bluff edge. In areas where fill has been placed near or over the historic bluff edge, the original natural bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

Blufftop (coastal). The upper surface of a bluff extending inland from the bluff edge.

Blufftop Parcel (coastal). A parcel located wholly or partially on a blufftop.

Board, Board of Supervisors. The Board of Supervisors of the County of Marin, State of California.

Board, Board of Commissioners of the Housing Authority. The Board of Commissioners of the Housing Authority of the County of Marin, State of California.

Broadcasting Studios (land use). This land use consists of commercial and public communications facilities entirely within buildings, including radio and television broadcasting and receiving stations and studios. Transmission and receiving apparatus, including antennas and towers, are included under the definition of "Telecommunications Facilities."

Buffer Zone. An area which separates one land use from another, or development from some identified constraint and/or resource (e.g. coastal hazard buffers, ESHA buffers, etc.) for purposes of safety, environmental protection or compatibility.

Building. Any structure, having a roof supported by columns or walls and usable for shelter, housing, or enclosure of any person, animal, equipment or material.

Building Area. The sum of the floor area of all floors in all buildings on a site. Unlike "Floor Area", building area includes garages, carports, storage buildings, and other attached or detached accessory structures.

Building Envelope. An area of real property identified for the construction of buildings and related development.

Building, Main. See "Structure, primary."

Building Material Stores (land use). This land use consists of the retail sale of lumber and other large building materials, where most display and sales activities occur indoors. Products sold may include paint, wallpaper, glass, fixtures, nursery stock, and lawn and garden supplies. Includes stores selling to the general public, even if contractor sales account for a major proportion of total sales. Includes incidental retail ready-mix concrete operations, except where excluded by a specific zoning district. Establishments primarily selling electrical, plumbing, heating, and air conditioning equipment and supplies are classified in "Wholesaling and Distribution." Hardware stores are listed in the definition of "Retail Stores, General Merchandise," even if they sell some building materials.

Building Site. That portion of a lot or parcel that is recognized by the Community Development Agency as having been created in compliance with the governing zoning and development standards that includes an area where LCP-consistent development can occur.

Bulk. When quantified, ~~T~~total interior cubic volume as measured from the exterior surfaces of the structure.

Business Support Services (land use). This land use consists of establishments located primarily within buildings, providing other businesses with services including maintenance, repair and service, testing, rental, etc. Examples of these services include:

- | | |
|--|---|
| - blueprinting | - janitorial services |
| - business equipment repair services (except vehicle repair, see "Repair and Maintenance - Vehicle") | - mail advertising services (reproduction and shipping) |
| - commercial art and design (production) | - outdoor advertising services |
| - computer-related services (rental, repair) | - photocopying |
| - copying, quick printing, and blueprinting services | - photofinishing |
| - equipment rental businesses within buildings (rental yards are "Storage Yards and Sales Lots") | - secretarial and personnel services |
| - equipment repair services where repair occurs on the client site | - security services |
| - film processing laboratories | - soils and materials testing laboratories |
| - graphic design | - window cleaning |

C. Definitions, "C."

Cabinet Shop. See "Furniture and Fixtures" (land use).

California Environmental Quality Act (CEQA). ~~A state law originally enacted in 1970, which requires public agencies to document and consider the environmental effects of a proposed action, before a decision is issued.~~ See California Public Resources Code Sections 21000 et seq.

Campground (land use). This land use consists of land that is used or intended for use by camping parties, which may include individual campsites, but where utility hookups for recreational vehicles are typically not provided at campsites. See also "Recreational Vehicle Parks."

Car Deck. See "Parking Structure."

Cargo Container. A portable, rectangular metal storage container, generally with a height greater than five feet and with doors on one end, designed to be transported on trucks, rail cars, or ships, individually or stacked.

Carport. See "Parking Structure."

Categorical Exclusion. Any category of development, or any category of development within a specifically defined geographic area, that the Coastal Commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the Coastal Commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources including public access to or along the coast, subject to the terms and conditions of the adopted exclusion.

Cemeteries, Columbariums and Mortuaries (land use). This land use consists of internment establishments engaged in subdividing property into cemetery lots and offering burial plots or air space for sale. Includes animal cemeteries; cemetery, mausoleum, crematorium and columbarium operations, and full-service funeral parlors, whether accessory to or separate from a cemetery or columbarium.

CEQA. See California Environmental Quality Act (CEQA).

Certificate of Compliance. A Certificate of Compliance is a document recorded by the County Recorder, which acknowledges that the subject parcel, ~~which was typically created prior to current subdivision map requirements,~~ is considered by the County to be a legal lot of record pursuant to the Subdivision Map Act. A Conditional Certificate of Compliance is a document recorded by the County Recorder, which acknowledges that used instead of a Certificate of Compliance to validate a parcel was not legally subdivided pursuant to the Subdivision Map Act. Procedures for Certificates of Compliance may be found in Chapter 22.96 (Certificates of Compliance) of this Development Code. In the coastal zone, approval of a certificate of compliance does not alter the need for any required coastal permit. (See definitions of illegal lot and land division.).

Chemical Products (land use). This land use consists of the manufacture of chemicals and other products created predominantly by chemical processes. This definition includes the manufacture of three general classes of products: (1) basic chemicals, such as acids, alkalies, salts, and organic chemicals; (2) chemical products to be used in further manufacture, such as synthetic fibers, plastic materials, dry colors, and pigments; and (3) finished chemical products to be used for ultimate consumption, such as drugs and cosmetics, or to be used as materials or supplies in other industries such as paints, fertilizers, and explosives. Also includes sales and transportation establishments handling the chemicals described above in other than one of the uses included in the Retail Trade Group on the land use and permit tables.

Child Day-Care Facilities (land use). This land use consists of the provision of nonmedical care and supervision of minor children for periods of less than 24 hours. This land use includes the following types of facilities, all of which are required to be licensed by the California State Department of Social Services:

1. **Child Day-Care Center (land use).** This land use consists of commercial or non-profit child day-care facilities designed and approved to accommodate 15 or more children. Includes infant centers, preschools, sick-child centers, and school-age day-care facilities. These may be operated in conjunction with other approved land uses, or as an independent land use.
2. **Large Family Day-Care Home (land use).** This land use consists of a day-care facility located in a single-family residence where an occupant of the residence provides care and supervision for eight to 14 children. Children under the age of 10 years who reside in the home count as children served by the day-care facility.
3. **Small Family Day-Care Home (land use).** This land use consists of a day-care facility located in a single-family residence where an occupant of the residence provides care and supervision for either six or fewer children, or eight or fewer children provided that no more than two of the children are under the age of two and at least two of the children are over the age of six. Children under the age of 10 years who reside in the home count as children served by the day-care facility.

Churches. See "Religious Places of Worship."

Clothing Products (land use). This land use consists of the manufacture of clothing, and the fabrication of products by cutting and sewing purchased textile fabrics, and related materials such as leather, rubberized fabrics, plastics and furs. Custom tailors and dressmakers not operating as a factory and not located on the site of a clothing store ("Retail Stores, General Merchandise") are instead included under "Personal Services." See also, "Textile and Leather Products."

Coastal Act. The California Coastal Act of 1976, enacted by the legislature in response to the 1972 ballot initiative known as Proposition 20. See Public Resources Code Section 30000 et seq. ~~The Coastal Act requires local jurisdictions to adopt and maintain Local Coastal Programs (LCPs) and implementing ordinances consistent with its provisions. Article V (Coastal Zones – Permit Requirements and Development Standards) of this Development Code comprises the implementing ordinances of the Marin County LCP.~~

Coastal Commission. The California Coastal Commission as established by the California Coastal Act of 1976.

Coastal Dependent Use. Any development or use that requires a site on, or adjacent to the ocean to function.

Coastal Permit. A discretionary land use permit, ~~that required pursuant to Public Resources Code Section 30600(a),~~ that may be granted in compliance with Article V (Coastal Zones – Permit Requirements and Development Standards), and which authorizes a specific use of land development on a specific site, subject to compliance with any conditions of approval imposed on the permit.

Coastal-Related Development (coastal). Any use that is dependent on a coastal-dependent development or use.

Coastal Resources (coastal): Include, but are not limited to: public access and public access facilities and opportunities, recreation areas and recreational facilities and opportunities (including for recreational water-oriented activities), public views, natural landforms, marine resources, watercourses (e.g., rivers, streams, creeks, etc.) and their related corridors, waterbodies (e.g., wetlands, estuaries, lakes, etc.) and their related uplands, groundwater resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources.

Coastal Stream (coastal). See “Stream (coastal)”

Coastal Zone (coastal). That land and water area, which includes parts of the County of Marin, specified on the maps identified and set forth in Section 17 of that chapter of the Statutes of the 1975-76 Regular Session enacting the California Coastal Act of 1976, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone generally extends inland less than 1,000 yards. The coastal zone does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, nor any area contiguous thereto, including any river, stream, tributary, creek, or flood control or drainage channel flowing into such area.

Coastal Zoning Districts. Any of the coastal zoning districts established by Article V (Coastal Zones – Permit Requirements and Development Standards), including:

C-ARP (Coastal, Agricultural Residential Planned)	C-CP (Coastal, Planned Commercial)
C-APZ (Coastal, Agricultural Production Zone)	C-H1 (Coastal, Limited Roadside Business)
C-RA (Coastal, Residential Agricultural)	C-VCR (Coastal, Village Commercial Residential)
C-R1 (Coastal, Single-Family Residence)	C-OA (Coastal, Open Area)
C-R2 (Coastal, Two-Family Residence)	C-RMPC (Coastal, Residential Multiple Planned Commercial)
C-RMP (Coastal, Residential Multiple Planned)	C-RCR (Coastal, Resort Commercial Recreation)
C-RSP (Coastal, Residential Single-Family Planned)	
C-RSPS (Coastal, Residential Single-Family Planned, Seadrift Subdivision)	

Co-Located. A telecommunications facility ~~site~~ where the facility accommodates more than one provider, such as a structure contains antennas for more than one telecommunications service or service providers.

Combining District. A combining district is a supplementary zoning designation that is applied to property in addition to a primary zoning district to highlight special regulations that apply to properties within the combining district. The combining districts established by Section 22.06.020 (Zoning Districts Established), include -B (Minimum Lot Size), and -BFC (Bayfront Conservation). In the coastal zone, combining districts are specified in 22.62.090 – Coastal Special Purpose and Combining Districts.

Commercial District or Zone. Any of the commercial zoning districts established by Sections 22.06.020 (Zoning Districts Established), or Article V (Coastal Zones – Permit Requirements and Development Standards) including:

VCR (Village Commercial/Residential)	C-VCR (Coastal, Village Commercial/Residential)
RMPC (Residential/Commercial Multiple Planned)	C-RMPC (Coastal, Residential/Commercial Multiple Planned)
C1 (Retail Business)	C-H1 (Coastal, Limited Roadside Business)
CP (Planned Commercial)	C-CP (Coastal, Planned Commercial)
AP (Administrative and Professional)	C-RCR (Coastal, Resort and Commercial)
OP (Planned Office)	

H1 (Limited Roadside Business)

Recreation)

RCR (Resort and Commercial Recreation)

Commercial Gardening (land use). This land use consists of small-scale truck gardening, tree farming, and other similar agricultural production activities, where products are sold off-site.

Commercial Parking and Vehicle Storage (land use). This land use consists of service establishments in the business of storing operative cars, buses, recreational vehicles, and other motor vehicles for clients. Includes both day use and long-term public and commercial garages, parking lots and structures, except when accessory to a principal use. Includes sites where vehicles are stored for rental or leasing. All principal uses are considered to include any customer or public use off-street parking required by this Development Code. Does not include dismantling yards; see "Recycling, Scrap and Dismantling Yards."

Commercial Recreational Facilities (coastal). Facilities such as riding stables, chartered fishing boats, amusement or marine parks, operated for private profit.

Commission. See "Planning Commission."

Common Interest Development. A condominium, community apartment project, planned development or stock cooperative, as provided by California Civil Code Section 1351, where individually-owned housing units are located together on a parcel or within a building that is owned in common by all owners of individual units.

Community Apartment Project. A development in which an undivided interest in land is coupled with the right of exclusive occupancy of any apartment located thereon; as defined in Business and Professions Code Section 11004 and Civil Code Section 1351(d).

Community Centers (land use). This land use consists of multi-purpose meeting and recreational facilities that are designed to enhance public recreational access and visitor-serving opportunities, and typically consist of one or more meeting or multi-purpose rooms, kitchen and/or outdoor barbecue facilities, that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc.

Community Garden (land use). This land use consists of public or private gardening for non-commercial neighborhood or community use where there is usually a formal or informal sharing of cultivation and maintenance responsibilities. Unlike parks and playgrounds, where plantings are often ornamental and ecological, community gardens emphasize planting of vegetables and agricultural crops.

Community Plan. A planning document which sets forth goals, objectives, policies, and programs to address specific issues related to a particular unincorporated community. Community Plans are considered part of the Marin Countywide Plan.

Completeness Determination. The review of a land use permit application and all supporting materials to determine whether the submittal includes all information and materials required by the Agency to analyze a proposed development's compliance with the relevant standard of review.

Concrete, Gypsum, and Plaster Products (land use). This land use consists of the manufacture of bulk concrete, concrete building block, brick and all types of precast and prefab concrete products. Also includes ready-mix concrete batch plants, lime manufacturing, and the manufacture of gypsum products, such as plasterboard. A retail ready-mix concrete operation as an incidental use in conjunction with a building materials outlet is defined under "Building Material Stores."

Conditional Use (coastal). A land use allowed in the applicable zoning district by Article 5 (Zoning Districts and Allowable Land uses) which is not otherwise permitted in that district, but which may be permitted by the County through a Use Permit under conditions set forth in the Development Code.

County decisions on Coastal Permits allowing such uses are appealable to the California Coastal Commission. [See Section 22.70.080.B.1 for Appeal of Coastal Permit Decisions]

Conditions, Covenants, and Restrictions (CC&Rs). A declaration recorded with the title to a parcel that may establish ~~private~~ provisions governing how a property shall be held, conveyed, encumbered, leased, rented, used, occupied, and/or improved. Private CC&Rs are not administered or enforced by the County, but CC&Rs emanating from permitting terms and conditions may be.

Condominium. As defined by Civil Code Section 1351.f, a development where undivided interest in common in a portion of real property is coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan. The area within the boundaries may be filled with air, earth, or water, or any combination, and need not be physically attached to any land except by easements for access and, if necessary, support.

Construction Equipment Sales (land use). This land use consists of the retail sale or rental of heavy construction equipment, including cranes, earth moving equipment, heavy trucks, etc.

Construction Yard (land use). This land use consists of the outdoor storage of vehicles and large equipment, or other materials commonly used in the construction business; storage of scrap materials used for repair and maintenance of construction equipment; and buildings or structures for uses including offices and repair facilities.

Contiguous Properties. For the purposes of Chapter 22.92 (Merger of Parcels) and for all Coastal Permit purposes, all adjoining land owned or controlled by the applicant, the property lines of which touch or join at more than one point, or the property lines of which are separated only by a public or private street, road or other public or private right-of-way, or separated only by other land owned by the applicant.

Conventional District. Any zoning district established by Sections 22.06.020 (Zoning Districts Established), and Article V (Coastal Zones – Permit Requirements and Development Standards), that is not included under the definition of "Planned District" provided by this Chapter. The conventional districts include:

A (Agriculture and Conservation)	C-R2 (Coastal, Residential, Two-Family)
A2 (Limited Agriculture)	VCR (Village Commercial/Residential)
RA (Residential, Agricultural)	C1 (Retail Business)
C-RA (Coastal, Residential, Agricultural)	AP (Administrative and Professional)
RR (Residential, Restricted)	H1 (Limited Roadside Business)
RE (Residential, Estate)	C-VCR (Coastal, Village Commercial/Residential)
R1 (Residential, Single-Family)	C-H1 (Coastal, Limited Roadside Business)
C-R1 (Coastal, Residential, Single-Family)	OA (Open Area)
R2 (Residential, Two-Family)	C-OA (Coastal, Open Area)
	PF (Public Facilities)

Cottage Industry (land use). This land use consists of the design, light manufacturing or product assembly, and the sale of products and services inside a dwelling or within an accessory building located on the same site as the dwelling, by the inhabitants of the dwelling. This land use involves the design, manufacture, and sale of the following products and services, or other uses determined by the Director to be similar in nature including: See Section 22.32.060 (Cottage Industries).

- antique repair and refinishing

- jewelry making

- baking & food preparation for off-site consumption
- batik and tie dyeing
- catering
- ceramics
- dress making, cloth decoration, etc.
- furniture and cabinet making, other woodworking
- painting and sculpture
- photography
- sewing
- weaving
- other handcrafts

County. The County of Marin, State of California, referred to in this Development Code as "the County."

County Boundary. The boundary of the unincorporated limits of the County of Marin.

County Code. The Marin County Code.

Countywide Plan. The Marin Countywide Plan, including all of its elements and amendments, and all Community Plans, as adopted by the Board of Supervisors under the provisions of the Government Code (Sections 65300 et seq.), and referred to in this Development Code as the "Countywide Plan." The Countywide Plan is not a part of the LCP.

Coverage. See "Site Coverage."

Crop Production (land use). This land use consists of commercial agricultural field and orchard uses, including production of:

- field crops
- flowers and seeds
- fruits
- grains
- melons
- ornamental crops
- tree nuts
- trees and sod
- vegetables

Also includes associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, and crop harvesting, ~~and sales in the field not involving a permanent structure.~~

Cumulative Effects (coastal). The incremental effects of an individual project ~~reviewed when considered in tandem in connection~~ with the effects of past projects, the effects of other current projects, and the effects of planned or probable future projects.

D. Definitions, "D."

DBH. See "Diameter at breast height"

Dairy Operations (land use). This land use consists of specialized and intensive commercial animal facilities for the raising and keeping of dairy animals, including facilities for milking.

Demolition. The act of tearing down, removing, or replacing an existing building, structure, or other physical improvement.

Density. The number of dwellings per acre of lot area, unless otherwise stated, for residential uses.

Density Bonus. An increase in the number of dwelling units over the base density.

Design Review. See Chapter 22.42 (Design Review). Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.

Development (coastal). On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code).

As used in this section, "structure" includes any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Any activity meeting the definition of development within the Coastal Zone requires a Coastal Permit, consistent with Chapter 22.68, unless exempt, categorically excluded, or qualifies for a de minimis waiver.

~~"Development" does not mean a "change of organization", as defined in California Code Section 56024 or a "reorganization", as defined in California Code Section 56073.~~

Development Code. The Marin County Development Code, Title 22 of the Marin County Code, referred to herein as "this Development Code." ~~The Development Code Sections 22.60 through 22.70, the portions of 22.32 and 22.130 that apply in the coastal zone, and all associated zoning maps, constitutes the LCP Implementation Plan.~~

Development Permit. See "Land Use Permit."

Development Project (non-coastal). "Development project" includes a project involving the issuance of a permit for construction or reconstruction but not a permit to operate. "Development project" does not include any ministerial projects proposed to be carried out or approved by public agencies.

Diameter at Breast Height (DBH). DBH means the diameter of a tree trunk measured in inches at a height of 4.5 feet above ground while standing on level ground or from the uphill side of the tree. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.

Director. The Director of the Marin County Community Development Agency or designee of the Director, referred to throughout this Development Code as "Director."

Disabled. A person with: (1) a physical or mental impairment which substantially limits one or more of a person's major life activities; (2) a record of having such an impairment; or (3) being regarded as having such an impairment.

Disaster (coastal). ~~Any situation in which the force or forces which destroy a structure were beyond the control of its owner. (Adapted from Public Resources Code Section 30610(g)(2)(A)).~~

Discretionary Permit. A permit granted by a review authority in response to a land use permit application after applying the exercise of judgment or deliberation prior to making a decision. Includes any of the following entitlements/approvals established by Article IV (Land Use and Development Permits): Coastal Permits, Design Review, Floating Home Adjustment Permits, Floating Home Architectural Deviations, Master Plans and Precise Development Plans, Use Permits, Sign Review, Temporary Use Permits, Tentative Maps, Tidelands Permits, and Variances. See also "Ministerial Permit."

Discretionary Project. A development project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular ~~activity~~project, as distinguished from situations where the public agency or body merely determines whether there has been conformity with applicable statutes, ordinances, or regulations. A timber harvesting plan submitted to the State Forester for approval under the requirements of the Z'berg-Nejedly Forest Practice Act of 1973 (Pub. Res. Code Sections 4511 et seq.) constitutes a discretionary project within the meaning of the California Environmental Quality Act Section 21065(c).

Disruption of habitat values (coastal). Disruption of habitat values may occurs when the physical habitat is significantly altered or when species diversity or the abundance or viability of species populations is reduced. The type of the proposed development, the particulars of its design, and location in relation to the habitat area, will affect the determination of disruption.

Domestic Water Use (coastal). Domestic water use is approved, potable water used for indoor and outdoor household and other ~~non-residential~~ purposes including drinking, cooking, personal hygiene, irrigation and the general operation of plumbing fixtures.

Dripline. A vertical line extending from the outermost edge of the tree canopy to the ground.

Drive-in and Drive-thru Sales (land use). This land use consists of the retail sale of food or other products to motorists who do not leave their vehicles to complete their purchases. Examples of facilities included under this land use are fast-food restaurants, drive-through photo processing facilities, coffee sales, dairy product stores, pharmacies, etc.

Drive-in and Drive-thru Services (land use). This land use consists of services provided to motorists who do not leave their vehicles to obtain the services. Examples of facilities included under this land use are drive-up bank teller windows, dry cleaners, etc. Does not include: automatic teller machines (ATMs) or automobile service stations, which are separately defined; or car washes (see "Repair and Maintenance - Vehicle").

Driveway. A vehicular access ~~across private property~~, extending from an improved street to a building site.

Dune (coastal). Ridges or mounds of loose, wind-blown material, usually sand. A dune structure often has a back and foredune area. Stable dunes are often colonized by vegetation.

Dwelling, or Dwelling Unit. A room or group of internally connected rooms that have sleeping, food preparation, eating, and sanitation facilities, but typically not more than one kitchen, which constitute an independent housekeeping unit, occupied by or intended for one household on a long-term basis. Types of dwellings include single-family dwellings, two-family dwellings, multi-family dwellings,

mobile homes, condominiums and townhouses, floating homes, and independent living units for the elderly.

E. Definitions, "E."

Easement, Conservation or Scenic. A grant of partial title from a landowner to a public or nonprofit agency for the purpose of protecting on-site environmental resources or scenic features by limiting the future development of the property.

~~Economic Life (coastal).~~ A period of at least 100 years.

Educational Tours (land use). Interactive excursion for groups and organizations for the purpose of informing them of the unique aspects of a property, including agricultural operations and environmental resources.

Effective Date of the Coastal Act (Coastal). February 1, 1973 for areas subject to the Coastal Zone Conservation Act and January 1, 1977 for areas identified as the Coastal Zone and subject to the Coastal Act.

Electrical and Electronic Equipment, Instruments (land use). This land use consists of the manufacture of manufacturing machinery, apparatus, and supplies for the generation, storage, transmission, transformation and use of electrical energy. Examples of these products include:

- appliances including stoves/ovens, refrigerators, freezers, laundry equipment, fans, vacuum cleaners, sewing machines
- aviation instruments
- computers, computer components, peripherals
- electrical transmission and distribution equipment
- electronic components and accessories, semiconductors, integrated circuits, related devices
- electrical welding apparatus
- lighting and wiring equipment such as lamps and fixtures, wiring devices, vehicle lighting
- industrial controls, instruments for measurement, testing, analysis and control, associated sensors and accessories, miscellaneous electrical machinery, equipment and supplies such as batteries, X-ray apparatus and tubes, electromedical and electrotherapeutic apparatus, electrical equipment for internal combustion engines
- motors and generators
- optical instruments and lenses
- photographic equipment and supplies
- radio and television receiving equipment
- surgical, medical and dental instruments, equipment, and supplies
- storage media, blank and pre-recorded, including magnetic, magneto-optical, and optical products such as compact disks (CDs), computer diskettes and hard drives, digital versatile disks (DVDs), magnetic tape products, phonograph records, etc.
- surveying and drafting instruments
- telephone and telegraph apparatus
- transformers, switch gear and switchboards
- watches and clocks

Does not include testing laboratories (soils, materials testing, etc.) (see "Business Support Services"), or research and development facilities separate from manufacturing (see "Research and Development").

Emergency. A sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss of, or damage to life, health, property, or essential public services.

Employee Housing. An accessory residential dwelling unit located in a commercial building on a parcel having a primary commercial land use and occupied by an employee of the commercial use on the same property or a family member who is actively engaged in such commercial use.

Endangered Species. An Endangered Species is an animal or plant species in danger of extinction throughout all or a significant portion of its range, as determined by the U.S. Fish and Wildlife Service or National Oceanic and Atmospheric Administration consistent with the Endangered Species Act of 1973, or as designated by the California Department of Fish and ~~Game~~ Wildlife consistent with the California Endangered Species Act.

~~{BOS app. 10/2/2012, 11/13/2012}~~

Energy Production Facility (coastal). Any public or private processing, producing, generating, storing, transmitting, or recovering facility for renewable or non-renewable energy resources, electricity, natural gas, petroleum, coals, solar or wind conversion, wave and tidal energy, biogas, or other source of energy.

Environmental Impact Report (EIR). An informational document ~~in compliance with prepared pursuant to~~ the California Environmental Quality Act (CEQA). Please refer to CEQA Section 21061 for a complete definition of an EIR.

Environmental Impact Statement (EIS). An informational document that analyzes a project's significant environmental effects and identifies mitigation measures and reasonable alternatives, ~~in compliance with prepared pursuant to~~ the National Environmental Policy Act (NEPA).

Environmentally Sensitive Habitat Area (ESHA) (coastal). Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. ESHAs include wetlands, coastal streams and riparian vegetation, and terrestrial ESHA.

~~{BOS app. 10/2/2012, 11/13/2012, 1/15/2013}~~

Environmentally Sensitive Habitat Area (ESHA), Terrestrial (coastal). Includes non-aquatic ESHA, including habitats of plant and animal species listed under the Federal or California Endangered Species Act and existing populations of the plants listed as 1b or 2 by the California Native Plant Society; coastal dunes; groves of trees that provide colonial nesting and roosting habitat for butterflies or other wildlife; and riparian vegetation that is not associated with an ~~ephemeral~~ watercourse. Does not include "Stream (coastal)" or "Wetland (coastal)". See also, "Environmentally Sensitive Habitat Area (ESHA)(coastal)" and "Riparian Vegetation (coastal)".

~~{BOS app. 1/15/2013}~~

Equestrian Facilities (land use). This land use consists of the commercial keeping of horses, donkeys, and mules in facilities, including:

- horse ranches
- boarding stables
- riding schools and academies
- horse exhibition facilities
- pack stations

This land use includes barns, stables, corrals, and paddocks accessory and incidental to the above uses. Noncommercial facilities of this type are included in the definition of "Agricultural Accessory Structures." This land use does not include the boarding of up to five horses on property in the ARP, C-ARP and C-APZ zones as indicated in Standard 5 of Table 3-7 (General Requirements for the Keeping of Large Animals).

ESHA (coastal) – See “Environmentally Sensitive Habitat Area.”

Estuarine Habitats. A habitat made up of a mixture of fresh and salt waters.

Estuary (coastal). A coastal water body, usually semi-enclosed by land, having open, partially obstructed, or intermittent exchange with the open ocean, and in which ocean water is at least occasionally diluted by freshwater from the land. The salinity level may be periodically increased to above that of the open ocean due to evaporation. The mean high tide line shall be defined as the statistical mean of all the high tides over the cyclical period of 18.6 years, and shall be determined by reference to the records and elevations of tidal benchmarks established by the National Ocean Survey. In areas where observations covering a period of 18.6 years are not available, a determination may be made based on observations covering a shorter period, provided they are corrected to a mean value by comparison with observations made at some suitably located control tide station.

~~**Existing (coastal).** Extant at the time that a particular Coastal Permit application is accepted for filing.~~

Existing Residential Second Unit. A legally constructed and established second unit existing prior to March 27, 1987, or the effective dates of resolutions establishing Second Unit Use Permit standards in specific communities (September 29, 1983 in Bolinas, January 10, 1984 in the Tamalpais Area, and June 25, 1985 in Stinson Beach). Also, see Residential Second Unit.

~~**Existing Structure (coastal).** A structure that is legal or legal non conforming. For the purpose of implementing LCP policies regarding shoreline protective devices, a structure in existence since May 13, 1982.~~

Exotic Animals. Non-domesticated animals that are carnivorous, poisonous, or not native to North America, commonly displayed in zoos as per Chapter 8.04 of the Marin County Code.

F. Definitions, "F."

Factor of Safety (coastal). The quotient of the forces tending to resist a potential landslide divided by the forces tending to drive a potential landslide.

Family. One or more persons occupying a dwelling and living as a single, domestic housekeeping unit, as distinguished from a group occupying a hotel or motel, club, fraternity or sorority house.

Farm (coastal). A place of agricultural production for commercial purposes which has annual sales of agricultural products of one thousand dollars (\$1,000) or more. For the C-APZ zoning district, the farm shall consist of all parcels owned (in either total or partial fee ownership) by the same owner of the property upon which a farmhouse is located. A farm shall consist of no less than all contiguous properties under common ownership. Non-contiguous property may constitute a separate farm when determined to be a wholly independent farming operation, as evidenced by such factors as independent types of bona fide commercial agricultural production, the history of such agricultural production on the property, and the long-term capital investment in independent farming operations and infrastructure (such as fencing, processing facilities, marketing mechanisms, and agricultural worker housing).

Farm Equipment and Supplies Sales (land use). This land use consists of the retail sale, rental, or repair of agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

Farm Operator (Coastal). The farm operator is the property owner or lessee who makes the day to day management decisions for the agricultural operation and is directly engaged in the production of agricultural commodities on the property.

Farm Worker Housing. See "Agricultural Worker Housing."

Farmer's Markets (land use). This land use consists of the temporary and/or occasional outdoor retail sale of farm produce from vehicles or temporary stands, located within a parking lot, or a public right-of-way (where authorized by encroachment permit).

Farmhouse (coastal). A farmhouse consists of a building owned by the farm owner or operator actively and directly engaged in agricultural use of the property. Such buildings may include factory built, modular housing units, constructed in compliance with the Uniform Building Code (UBC), and mobile homes/manufactured housing on permanent foundations. This land use consists of a single family dwelling that is the residence of the owner or operator of the agriculturally zoned property upon which it is located.

Feasible. That which is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

Fill (coastal). Earth or any other substance or material, including pilings placed for the purpose of placing structures thereon, placed in a submerged area. Also, a deposit of earth material placed by artificial means; any act by which earth, sand, gravel, rock, or any other material is placed, pushed, dumped, pulled, transported, or moved to a new location above the natural surface of the ground, on top of the stripped surface, or in a submerged area.

Final Map. A subdivision map prepared in compliance with Subdivision Map Act, Article 2, Chapter 2, and approved in compliance with Subdivision Map Act, Article 4, Chapter 3.

Fire Inspector. A person empowered by the chief of a fire department to inspect property for fire safe landscape, wildland management or fire protection.

Fish Hatcheries and Game Reserves (land use). This land use consists of commercial fish hatcheries, rearing ponds, aquaculture, fish and game preserves, and game propagation. (See "Mariculture" for shellfish, kelp, algae, etc.)

Flag lot. See "Lot or Parcel."

Floating Home (land use). This land use consists of any boat, craft, living accommodation, or structure supported by means of flotation, designed to be used without a permanent foundation, that is used or intended for human habitation.

Floating Home Adjustment Permit. See Chapter 22.46 (Floating Home Adjustments and Deviations).

Floating Home Architectural Deviation. See Chapter 22.46 (Floating Home Adjustments and Deviations).

Floating Home Fairway. An area of water within a floating home marina that is used exclusively for access to other waters for vessels permanently moored in the floating home marina. A fairway shall not be used for the permanent mooring of any vessel or for piers, docks, ramps, walkways or other exit ways.

Floating Home Marina (land use). This land use consists of a facility that contains one or more berthing spaces for floating homes.

Flood Hazard Zone (coastal). Geographic areas defined by the Federal Emergency Management Agency according to varying levels of flood risk which are depicted on a community's Flood Insurance Rate Map (FIRM). Flood Hazard Zones with a "V" designation are located in coastal areas which have a one percent or greater chance of annual flooding and an additional hazard associated with storm waves (also referred to as the "V Zone").

Flood Velocity Zone (coastal). See "Flood Hazard Zone."

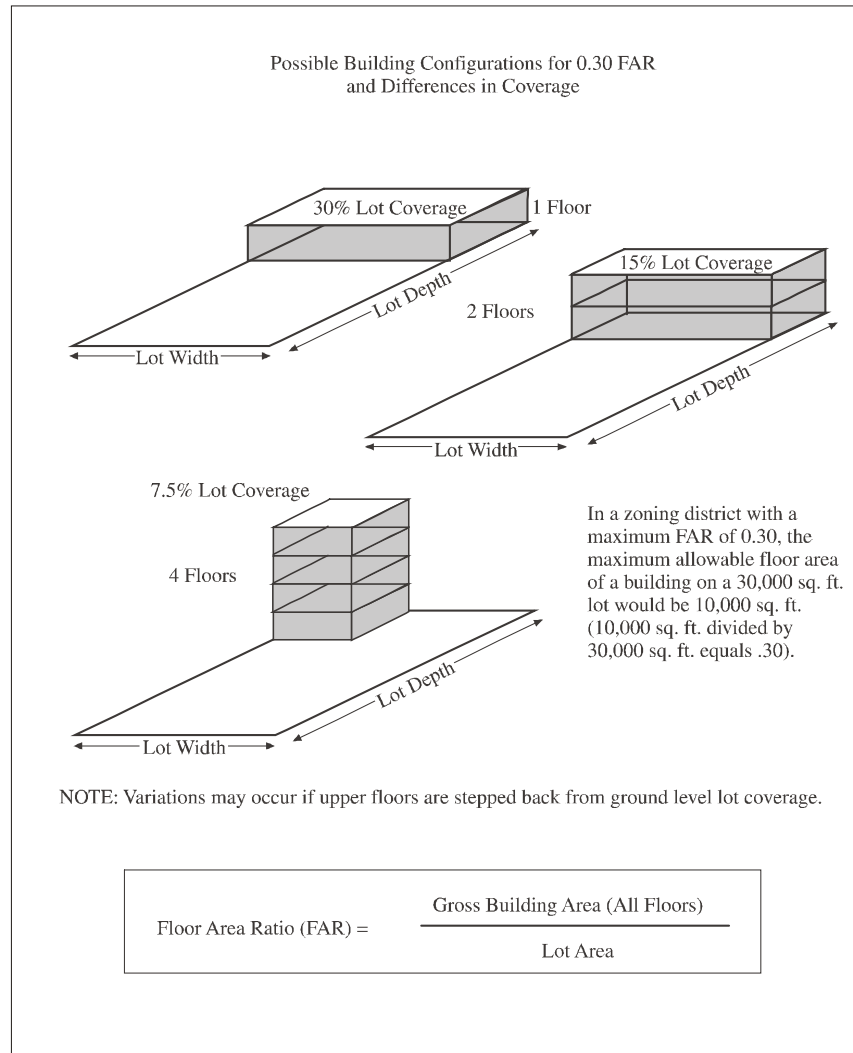
Floor Area. Except as specified by the Tamalpais Area Community Plan for development in that Plan area, the sum of the gross area of all floors in all buildings on a site, measured from the exterior faces of the exterior walls, including enclosed understory, basement, and attic space that can be easily converted to living area, but excluding:

1. All unenclosed horizontal surfaces, including balconies, courts, decks, porches, terraces;
2. For single-family residential structures, the first 250 square feet of floor area of all detached accessory structures not designed for and/or used for habitable space;
3. For single-family residential structures, the first 540 square feet of garage areas permanently allocated for vehicle parking;
4. For two-family, multi-family, and non-residential structures, all floor area that is required to meet minimum parking standards under Title 24;
5. Exterior wall thickness of greater than 6 inches, where the additional wall thickness results in greater energy efficiency (e.g. straw bale construction or earthen wall construction), as demonstrated by the applicant and subject to the approval of the Director; and
6. Bay windows.

The floor area of stairways, elevators, and other vertical accesses, is included in the total floor area only as to the "footprint" (area at the base) of the vertical access, and is not counted at each floor of a building. In order to qualify as an unenclosed horizontal surface, at least one of the longest wall planes of the space shall be kept open with the exception that railings with a surface area that is at least 50% open and unobstructed by structural elements and that are necessary for safety or convenience purposes may be allowed within the open wall plane. As defined herein, understory, basement, and attic space that can be easily converted to living area include: (1) unconditioned and unimproved spaces that yield a minimum clear room area of 7 feet by 7 feet and a minimum ceiling height of 7 ½ feet or higher; and (2) all attic areas with a minimum ceiling height of 5 feet or higher.

Floor Area Ratio (FAR). The total floor area of all buildings on a lot, divided by the area of that lot. For example, a building with 3,000 square feet of floor area on a 10,000 square foot lot has a FAR of 0.30. See Figure 8-1 (Floor Area Ratio).

**FIGURE 8-1
FLOOR AREA RATIO**



Food Preparation Facilities. Food preparation facilities may include, but are not limited to, a stove, oven, microwave, hot plate, refrigerator, sink, counters, or cabinets. Wet bars and snack bars are not considered food preparation facilities.

Food Products (land use). This land use consists of the manufacture of or processing foods for human consumption, and certain other related products. Examples of the products included in this land use are:

- bakery products
- candy, sugar and confectionery products
- catering services separate from stores or restaurants
- dairy products
- fats and oil products
- fruit and vegetable canning, preserving, related processing
- grain mill products and by-products
- meat, poultry, and seafood canning, curing, byproduct processing
- miscellaneous food item preparation from raw products

Does not include: bakeries which sell all products on site (see "Retail Stores, General Merchandise"); beer brewing as part of a brew pub, bar or restaurant (see "Bars and Drinking Places"); beverage production other than dairy products (see "Beverage Production"); slaughterhouses and rendering plants (see "Slaughterhouses and Rendering Plants"); or operations on crops after harvest (see "Agricultural Processing Uses").

Footprint. The horizontal surface area covered by a structure.

Forestry (coastal). The practice of cultivating, managing, using, and conserving forests.

Front Wall. The wall of the building or other structure nearest the street upon which the building faces.

Front Wall (Signs). For the purposes of Chapter 22.28 (Signs), the front wall is the wall of a structure that contains the primary entrance or entrances to the premises. If there are entrances in more than one wall, the longest of the walls in which primary entrances are located shall be the front wall. The front wall includes not only the wall itself, but all doors, windows, and other openings and projections. See Figure 8-2.

Frontage. See "Lot Frontage."

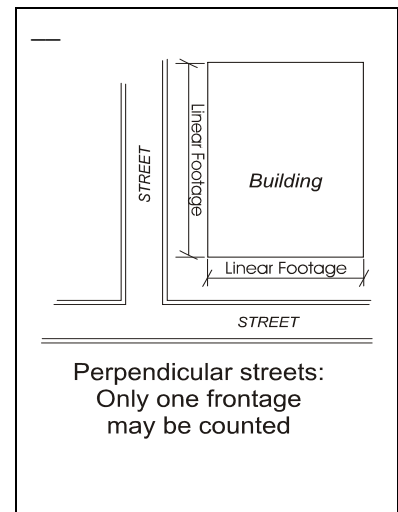
Fuel and Ice Dealers (land use). This land use consists of the retail sale to consumers of ice, bottled water, fuel oil, butane, propane and liquefied petroleum gas (LPG), bottled or in bulk, as a principal use.

Fully Protected Species. Fully Protected species is a classification of fish, amphibians, reptiles, birds and mammals established by the California Department of Fish and ~~Game~~ Wildlife prior to the Federal Endangered Species Act of 1973, to identify and provide additional protection to those animals that were rare or faced possible extinction at the time. Fully Protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except for collecting these species for necessary scientific research and relocation of the bird species for the protection of livestock. Species provided this classification are listed under the California Fish and ~~Game~~ Wildlife Code Sections 3511, 4700, 5050, and 5515, however some of the listed species names are no longer consistent with current scientific nomenclature.

Functional Capacity, Self-Sustaining Habitat (coastal). The ability of a habitat to be self-sustaining and to maintain natural species diversity or special-status species.

Furniture and Fixtures Manufacturing (land use). This land use consists of the manufacture of products including:

- | | |
|-----------------------------|--------------------------------------|
| - bedsprings and mattresses | - shades |
| - drapery hardware | - shelving |
| - household appliances | - store furniture |
| - lockers | - window blinds |
| - office furniture | - wood and metal household furniture |
| - partitions | |



Includes wood and cabinet shops, but not sawmills or planing mills, which are instead included under "Lumber and Wood Products."

Furniture, Furnishings and Equipment Stores (land use). This land use consists of the retail sale of products including:

- draperies
- floor coverings
- furniture
- glass and chinaware
- home furnishings
- home sound systems
- large musical instruments
- lawn furniture
- movable spas and hot tubs
- office furniture
- other household electrical and gas appliances
- outdoor furniture
- refrigerators
- stoves
- televisions

G. Definitions, "G."

Garage, Carport, or Car Deck. See "Parking Structure."

General Plan. See "Marin Countywide Plan."

Glass Products (land use). This land use consists of the manufacture of flat glass and other glass products that are pressed, blown, or shaped from glass produced in the same establishment. Does not include artisan and craftsman type operations of a larger scale than home occupations; see "Handcraft Industries and Small Scale Manufacturing."

Golf Courses/Country Clubs (land use). This land use consists of golf courses, and accessory facilities and uses including: clubhouses with bar and restaurant, locker and shower facilities; driving ranges; "pro shops" for on-site sales of golfing equipment and clothing; and golf cart storage and sales facilities.

Grade. The ground elevation used as the basis for measurement of allowed structure height. Grade shall be the elevation of the natural or finished grade at the exterior surface of the structure, whichever is more restrictive, ~~and the elevation of the natural grade within the footprint of the structure.~~ using a topographic map prepared by a licensed Civil Engineer or Land Surveyor. Retaining walls cannot be used to raise the "Grade" and increase the allowable height of a structure.

Grading (coastal) – Any excavation, stripping, cutting, filling, or stockpiling of soil material, or any combination thereof ~~that exceeds 150 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 "Agricultural Production Activities, Ongoing").
[BOS app. 1/15/2013]

Grantee/Grantor Index. The index to real property transfer transactions maintained by the Marin County Recorder.

Group Homes (land use). This land use consists of a dwelling unit licensed or supervised by any federal, state, or local health/welfare agency which provides 24-hour nonmedical care of unrelated persons who are not disabled but are in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment. Includes: children's homes; rehabilitation centers; self-help group homes. Medical care may be provided in conjunction with group homes that provide alcoholism or drug abuse recovery or treatment services. Convalescent homes, nursing homes and similar facilities providing medical care are included under the definition of "Medical Services - Extended Care."

Guest House (land use). This land use consists of a detached structure that has a bathroom and that contains more than 400 square feet of floor area that is subject to building permit requirements under the residential occupancy code. To be a guest house, the structure cannot contain food preparation facilities and shall not be rented or otherwise used as a separate dwelling.

H. Definitions, "H."

Handcraft Industries, Small-Scale Manufacturing (land use). This land use consists of the manufacture of products not classified in another major manufacturing group, including: jewelry; musical instruments; toys; sporting and athletic goods; pens, pencils, and other office and artists' materials; buttons, costume novelties, miscellaneous notions; brooms and brushes; and other miscellaneous manufacturing industries.

Harbors (land use). This land use consists of facilities providing a full range of services related to: commercial and recreational fishing; fisheries and hatcheries; seafood processing; ship and boat building and repair; marine hardware sales and service; petroleum storage and handling; boat storage and miscellaneous storage activities. Facilities primarily oriented toward recreational activities are included under the definition of "Marinas."

Hazardous Waste Facility. A state-licensed facility for the temporary storage and/or processing of hazardous waste.

Health/Fitness Facilities (land use). This land use consists of fitness centers, gymnasiums, health and athletic clubs including sauna, spa or hot tub facilities; tennis, handball, racquetball, archery and shooting ranges and other sports activities.

Health Officer. The Marin County Health Officer.

Height, Structure (coastal). The vertical distance from grade, as defined herein, to the highest point of a structure. Maximum height shall be measured as the vertical distance from grade to an imaginary plane located the allowed number of feet above and parallel to the grade. The maximum height of buildings located in areas subject to tidal action shall be measured from MSL. ~~Any structure built prior to April 8, 1980 shall be exempt from becoming nonconforming with respect to height.~~ The height measurement for structures within Seadrift Subdivision in the special Flood Hazard (V-zone) shall be measured according to the requirements of LCP Policy C-EH-11.

Highway. State Route 1, State Route 101, and Panoramic Highway.

Historic Area. Areas mapped and described as historic areas in the Marin County Local Coastal Program, including those within Bolinas, Inverness, Marshall, Olema, Point Reyes Station, Stinson Beach, and Tomales.

~~**Historic Lot.** A unit of real property that was formerly a legal lot of record.~~

Historic Public Use (coastal). Use of private land as if it were public land in a manner that is substantial (rather than minimal) and continual, although not necessarily continuous, over a long period of time.

Historic Structure. As determined by the Marin County Local Coastal Program, any building constructed prior to 1930, including any accessory structures on a site.

Holiday Product Sales. See "Outdoor Retail Sales, Temporary."

Home Occupation (land use). This land use consists of the conduct of a business within a dwelling, or, where allowable, within an accessory building located on the same site as the dwelling, employing the occupant of the dwelling, with the business activity being subordinate to the residential use of the property. See Section 22.32.100 (Home Occupations).

Homeless Shelter. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. In order for a facility to be a homeless shelter, no person may be denied emergency shelter because of an inability to pay, per Health and Safety Code Section 50801(e).

Homestay (coastal). See “Agricultural Homestay Facility.”

Horses, Donkeys, Mules, Ponies (land use). This land use consists of the raising or keeping of horses, donkeys, mules, and/or ponies for domestic/recreational or agricultural purposes.

Hotel or Motel (land use). This land use consists of facilities with guest rooms and/or suites, provided with or without meals or kitchen facilities, rented to the general public for overnight or other temporary lodging (less than 30 days). Hotels provide access to most guest rooms from an interior walkway. Motels provide access to most guest rooms from an exterior walkway. Also includes accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, accessory retail uses, etc.

Household Income. The gross annual household income considering household size, income of all wage earners, elderly or disabled family members, and all other sources of household income.

Household Pets (land use). This land use consists of the keeping of cats, dogs, and other domesticated animals, determined by the Director to be comparable based on factors including size, sanitation requirements, odor, noise, etc., accessory and incidental to a residential use.

Housing Authority. The Marin County Housing Authority, a nonprofit public corporation.

Housing Costs. The monthly mortgage principal and interest, property taxes, homeowners insurance, and condominium fees, where applicable, for ownership units; and the monthly rent for rental units.

Housing Director. The Executive Director of the Marin County Housing Authority.

Housing Project. A development of housing units at one location, including all units for which permits have been applied for or approved within a 12-month period.

HUD. The United States Department of Housing and Urban Development, or its successor.

Hunting and Fishing Clubs - Private (land use). This land use consists of hunting of wildlife, fishing, and accessory structures where such activities are undertaken by the property owner(s) and their guests without a fee being charged.

Hunting and Fishing Clubs - Public (land use). This land use consists of hunting of wildlife, fishing, and accessory structures where such activities are undertaken by guests or members of the public for a fee.

I. Definitions, "I."

Illegal Lot, Use or Structure (Coastal). A lot, use or structure that did not receive a required coastal permit or did not lawfully exist on the effective date of the Coastal Act.

Immediate Family (coastal). A person's spouse, registered domestic partner, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse, child, stepchild or guardian of any of those persons.

Implementation Plan (coastal). Development Code Sections 22.60 through 22.70, the portions of 22.32 and 22.130 that apply in the coastal zone, and all associated zoning maps, constitutes the LCP Implementation Plan.

Impoundments and Diversions. Impoundments and diversions refers to alterations in stream flows through holding or diverting water supply.

Including. Means "including but not limited to . . ."

Inclusionary Unit/Lot. A housing unit or lot that is required by Chapter 22.22 (Affordable Housing Regulations) to be affordable to extremely low, very low or low income households, as specified or that has been proposed by an applicant and approved by the County to meet the requirements of Chapter 22.22.

Income Qualifying Household. Household whose income is defined as extremely low, very low, low or moderate-income for Marin County as published by the U.S. Department of Housing and Urban Development (HUD) or the California Department of Housing and Community Development (HCD) with adjustments for household size. Current or applicable schedule to be applied is at the discretion of the Director.

- a. Moderate income, 80 to 120 percent of area median income.
- b. Low income, 50 to 60 percent of area median income.
- c. Very low income, 30 to 50 percent of area median income.
- d. Extremely low income, 30 percent and less of area median income.

Income Restricted Housing. Dwelling units with long-term income restriction which restrict occupancy to households at or below a specific income.

Individual Sewage Disposal System (Coastal). The term "individual sewage disposal system" means and includes any system of piping, treatment devices or other facilities (excluding chemical toilets) that store, convey, treat or dispose of sewage onsite, which is discharged anywhere other than into a public sewer system.

- A. **Standard Individual Sewage Disposal System (Coastal).** Any individual sewage disposal system which includes a septic tank (with or without the use of sump chamber and pump) by which method subsurface effluent is disposed of through leach lines.
- B. **Alternative Individual Sewage Disposal System (Coastal).** Any individual sewage disposal system which may or may not include a standard septic tank for treatment, or does not include standard leaching trenches for effluent disposal, which has been demonstrated to function in such a manner as to protect water quality and preclude health hazards and nuisance conditions.

Indoor Recreation Centers (land use). This land use consists of facilities providing indoor amusement/entertainment services for a fee or admission charge, such as:

- bowling alleys
- card rooms
- coin-operated amusement arcades
- dance halls, clubs and ballrooms
- electronic game arcades

- ice skating and roller skating rinks
- pool and billiard rooms

Five or more electronic games or coin-operated amusements in any establishment is considered an electronic game arcade as described above. Four or less machines are not considered a land use separate from the primary use of the site.

Infant. An infant is a child less than 12 months of age.

Initial Study. A preliminary analysis to determine whether an Environmental Impact Report (EIR), Mitigated Negative Declaration or a Negative Declaration must be prepared, and to identify any potentially significant environmental effects that are to either be mitigated or further analyzed.

In-Lieu Fee. A fee paid to the County by developers in lieu of providing required on-site inclusionary units or lots, or a fee paid to the County by developers in lieu of dedicating parkland, or a fee paid to the County to comply with other Code requirements.

Institutional Structure, or Use. A publicly-owned structure accommodating a public facility; or a private structure designed and operated as a church, hospital, school, or similar facility

Intergenerational Home (coastal). In the C-APZ land use designation and zoning district, a type of agricultural dwelling unit allowed subject to certain criteria and which may only be occupied by occupants authorized by the farm owner or operator actively and directly engaged in agricultural use of the property, ~~in addition to otherwise permitted development for residence exclusively by members of the farm operator's or owner's immediate family, where this home is not subdivided from the primary agricultural parcel.~~

J. Definitions, "J."

Junk. Materials that characterize junk typically include automotive parts, vehicle body parts, inoperable vehicles, household furniture, appliances, household trash, building materials, scrap wood, scrap metal, and machine parts.

Junk Yard (land use). This land use consists of outdoor storage occupying an area of 200 square feet or more, or the storage of junk in any yard adjoining a street, for collecting and assembling, storing, breaking up, sorting, and the temporary storage and distribution of recyclable or reusable scrap and waste materials, including auto wreckers engaged in dismantling automobiles for scrap, and the incidental wholesale or retail sales of parts from those vehicles. In no case shall the stored junk exceed a height of five feet.

K. Definitions, "K."

Kennels and Animal Boarding (land use). This land use consists of the keeping, boarding or maintaining of six or more household pets at least four months of age or older, except for household pets in pet shops or animal hospitals. "Kennel" does not mean and does not include any lot or premises on which a person has been issued a dog hobbyist or ranch dog permit in compliance with the provisions of Sections 8.04.245 or 8.04.246 of the Marin County Code.

Kitchen. See "Food Preparation Facilities."

L. Definitions, "L."

Lagoon (coastal). A shallow body of water, such as a pond, ~~or lake~~ or seasonally closed river mouth, usually located near or connected to the sea.

Lake (coastal). A relatively large and deep confined perennial water body that is mapped by the USGS.

Land Division (coastal). A type of development requiring a coastal permit and including subdivision (through parcel map, tract map, grant deed), lot line adjustments, redivisions, mergers and certificates of compliance.

Land Use. The purpose for which land or a building or other development thereon is occupied.

Land Use Permit. Any of the entitlements/approvals described by Article IV (Land Use and Development Permits), including Design Review, Floating Home Adjustment Permits, Use Permits, Temporary Use Permits, Tidelands Permits, Variances, Master Plans, or Precise Development Plans.

Landscaped Area. The entire planting area within a parcel affected by new plantings and supporting irrigation, excluding building footprints, paved driveways, parking areas, decks, patios, walkways and undisturbed natural areas. Water features ~~are~~ may be included in the landscaped area.

Large Family Day Care Home (land use). See "Child Day Care Facilities."

Laundries and Dry Cleaning Plants (land use). This land use consists of service facilities engaged primarily in high volume laundry and garment services, including: power laundries (family and commercial); garment pressing and dry cleaning; linen supply; diaper service; industrial laundries; and carpet and upholstery cleaners. Does not include coin-operated laundries or dry cleaning pick-up stores without dry cleaning equipment; see "Personal Services."

LCP. See "Local Coastal Program."

Lead Agency. The public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.

Legal Lot (coastal). A lot that was lawfully created under both the Subdivision Map Act and the Coastal Act and has received the necessary Map Act approval and a Coastal Permit. (See Land Divisions (Coastal).) ~~"Legal Lot of Record"~~

Legal Lot of Record. A parcel is considered to be a legal lot of record under the Subdivision Map Act if it was created in conformance with any of the following criteria:

- A. Recorded subdivision. The lot was created through a subdivision Final map or Parcel map recorded on or after January 1, 1930. Antiquated subdivisions ~~may~~ shall not be deemed to have created lots. A lot ~~depicted~~ created on a subdivision Final map or Parcel map recorded before January 1, 1930 may be considered a legal lot only if it has been ~~reconveyed~~ subsequently to January 1, 1930 with references made to the original subdivision Final map or Parcel map.
- B. Individual lot legally created by deed. The lot was legally created by deed conveyance into separate ownership and was in compliance with the zoning and subdivision requirements that applied at the time of creation.
- ~~C. Government conveyance. The lot was created by conveyance to a governmental entity.~~

When historic lots were merged by agency action or pursuant to applicable state law, the merged historic lots comprise a single legal lot of record.

Libraries and Museums (land use). This land use consists of public or quasi-public facilities including aquariums, arboretums, art exhibitions, botanical gardens, historic sites and exhibits, libraries, museums, and planetariums, which are generally non-commercial in nature.

Liquor Store (land use). A retail store offering beer, wine, and/or distilled spirits for off-premise consumption which either devotes 20% or more of the floor area or display area to, or derives 75% or more of gross sales receipts from, the sale of these products.

Livestock Operations, Grazing (land use). This land use consists of the raising or keeping of cattle, or other animals of similar size, where feed is provided primarily by grazing when on-site resources are available. Does not include the keeping of horses, donkeys, mules, or ponies, (see "Horses, Donkeys, Mules and Ponies").

Livestock Operations, Large Animals (land use). This land use consists of the raising or keeping of cattle, goats, ostriches, sheep, hogs, or other farm or exotic animals of similar size, in corrals or other similar enclosures. Does not include the keeping of horses, donkeys, mules, or ponies, (see "Horses, Donkeys, Mules and Ponies") or the grazing or pasturing of large animals on open rangeland (see "Livestock Operations, Grazing"). See also, "Dairy Operations."

Livestock Operations, Sales/Feed Lots, Stockyards (land use). This land use consists of specialized and intensive commercial animal facilities including animal sales yards, stockyards, and cattle feedlots. Feedlots are any site where cattle are held and maintained for the purposes of feeding/fattening, for market, and where at least 60 percent of the feed is imported or purchased. Does not include slaughterhouses or rendering plants; see "Slaughterhouses and Rendering Plants." See also, "Dairy Operations."

{BOS app. 1/15/2013}

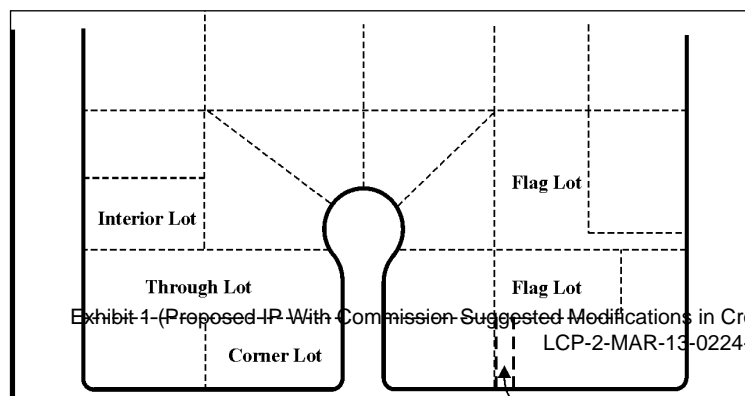
Livestock Operations, Small Animals (land use). This land use consists of the raising or keeping of up to 12 fowl and/or 12 rabbits or similar animals. Does not include hog raising, dairying or the raising or keeping for commercial purposes of cattle, horses, or similar livestock, as determined by the Director; see "Livestock Operations, Large Animals."

Local Coastal Program (LCP). A document that consists of a Land Use Plan and Implementing actions consisting of relevant portions of the County's Development Code, zoning Ordinances and Zoning District maps prepared and adopted by the County and certified by the Coastal Commission in compliance with the California Coastal Act of 1976 (Division 20 of the Public Resources Code).

Lot. ~~A legal lot of record.~~ Types of lots include the following. See Figure 8-3 (Lot Types).

1. **Corner Lot.** A lot located at the intersection of two or more streets, bounded on two or more sides by street lines.
2. **Flag Lot.** A lot having access from the building site to a public street by means of private right-of-way strip that is owned in fee or by means of an access easement.
3. **Interior Lot.** A lot abutting only one street.
4. **Through Lot.** A lot with frontage on two generally parallel streets.

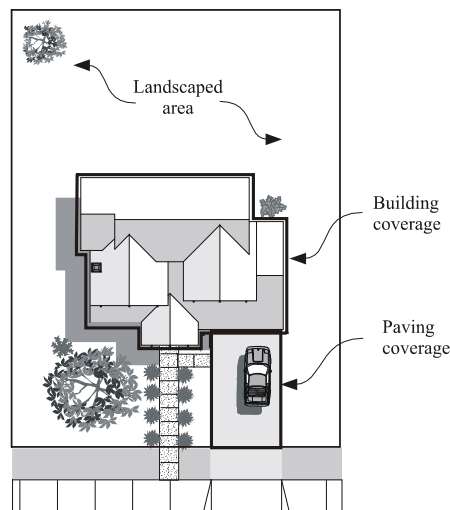
**FIGURE 8-3
LOT TYPES**



Lot Area. Lot area is the total area included within the lot lines of a lot, exclusive of adjacent street rights of way and any portion of the property located below mean high tide that is subject to tidal action.

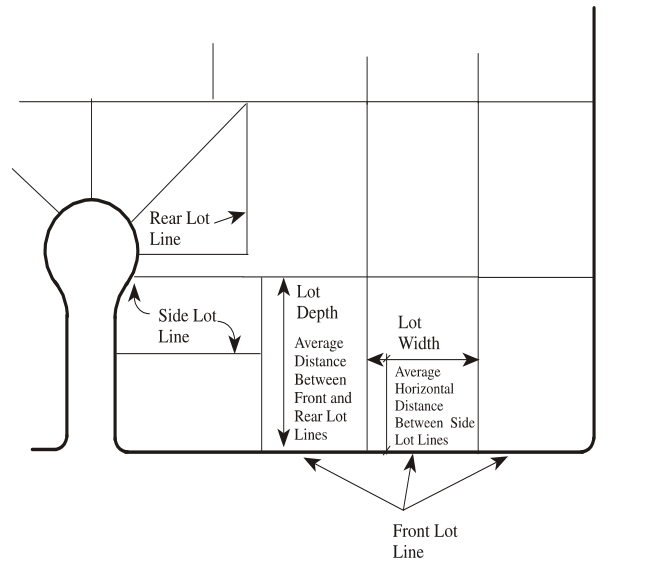
Lot Coverage. Lot coverage is the percentage of total site area occupied by structures, and paving for vehicle and pedestrian use. Structure/building coverage includes the primary structure, all accessory structures (e.g., carports, garages, patio covers, storage sheds, trash dumpster enclosures, etc.) and architectural features (e.g., chimneys, balconies, decks, porches, stairs, etc.). Structure/building coverage is measured from exterior wall to exterior wall. Pavement coverage includes areas necessary for the ingress, egress, outdoor parking, and circulation of motor vehicles and pedestrians. See Figure 8-4 (Lot Coverage).

**FIGURE 8-4
LOT COVERAGE**



Lot Depth. The average linear distance between the front and the rear lot lines or the intersection of the two side lot lines if there is no rear line. See Figure 8-5 (Lot Lines and Lot Features). The Director shall determine lot depth for parcels of irregular configuration.

**FIGURE 8-5
LOT LINES AND LOT FEATURES**



Lot Frontage. The boundary of a lot adjacent to a public or private street right-of-way.

Lot Line, or Property Line. Any recorded boundary of a lot. Types of lot lines are as follows (see Figure 8-5 (Lot Lines and Lot Features)):

1. **Front Lot Line.** On an interior lot, the property line separating the parcel from the street. The front lot line on a corner lot is the property line bounding the street to which the property is addressed and the street from which access is taken. On a through lot, both lot lines are front lot lines and the lot is considered to have no rear lot line.
2. **Interior Lot Line.** Any lot line not abutting a street.
3. **Rear Lot Line.** A property line that does not intersect the front lot line, which is most distant from and most closely parallel to the front lot line.
4. **Side Lot Line.** Any lot line that is not a front or rear lot line.

Lot Width. The average horizontal distance between the side lot lines. See Figure 8-5 (Lot Lines and Lot Features). The Director shall determine lot width for parcels of irregular shape.

Low Impact Development (LID): A development site-design strategy with a goal of maintaining or reproducing the site's pre-development hydrologic functions of storage, infiltration, and groundwater recharge, as well as maintaining the volume and rate of stormwater discharges and protecting water quality. Low Impact Development strategies use small-scale integrated and distributed management practices, including minimizing impervious surfaces, infiltrating stormwater close to its source, and preserving permeable soils and native vegetation.

Low Income. See "Income Qualifying Household"

Lumber and Wood Products (land use). This land use consists of the manufacture, processing, and sale of milled forest products, including rough and finished lumber and other wood materials for use in other manufacturing, craft, or construction processes. Includes the following processes and products:

- containers, pallets and skids
- milling operations
- trusses and structural beams
- turning and shaping of wood products

- wholesaling of basic wood products
- wood product assembly

Craft-type shops are included in "Handcraft Industries and Small-Scale Manufacturing." Other wood and cabinet shops are included under "Furniture and Fixture Manufacturing." The indoor retail sale of building materials, construction tools and equipment is included under "Building Material Stores."

M. Definitions, "M."

Machinery Manufacturing (land use). This land use consists of the manufacture of machinery and equipment for purposes and products including the following:

- bulldozers
- carburetors
- construction
- conveyors
- cranes
- die casting
- dies
- dredging
- engines and turbines
- farm and garden
- food products manufacturing
- gear cutting
- heating, ventilation, air conditioning
- industrial trucks and tractors
- industrial furnaces and ovens
- industrial molds
- laundry and dry cleaning
- materials handling
- mining
- oil field equipment
- paper manufacturing
- passenger and freight elevators
- pistons
- printing
- pumps
- refrigeration equipment
- textile manufacturing

Major Energy Facility (coastal). Any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy that costs more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611 or 30624.

Major Public Works Project (coastal). ~~This land use consists of:~~ (1) Publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities; and (2) Public Works Facilities (see definition of "Public Works (coastal)") that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611 or 30624, ~~and that fall within one of the following categories:~~

~~a) Production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the California Public Utilities Commission, except for energy facilities;~~

~~b) Public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities;~~

~~c) Projects of the State Coastal Conservancy and any development by a special district;~~

~~d) Community college facilities.~~

Major Vegetation (coastal). Any vegetation that is a sensitive species, or is located on a beach or sand dune, within fifty feet of the edge of a coastal bluff, in an environmentally sensitive habitat area (ESHA) or its buffer, or heritage trees and or vegetation that is visually prominent and/or a significant part of the public viewshed. Agricultural crops lands and pastures, and nonnative ornamental vegetation not meeting the above criteria, are not considered to be major vegetation. ~~The removal of vegetation for~~

~~defensible space, including the pruning and maintenance of understory vegetation within 100 feet of a building or structure, the maintenance of trees and removal of trees less than 6 inches in DBH (diameter at breast height) within 100 feet of a building or structure, and the removal of vegetation within 100 feet of a power pole and/or transmission line by a public agency or their representative do not constitute removal or harvesting of major vegetation.~~

Map Act. See "Subdivision Map Act."

Mariculture (land use). This land use consists of agricultural activities dedicated to the culture and husbandry of aquatic organisms including shellfish, mollusks, crustaceans, kelp, and algae. (See "Fish Hatcheries and Game Reserves," for activities related to fish.)

Marin Countywide Plan. The Marin Countywide Plan, including all its elements and all amendments, adopted as the General Plan by the Board of Supervisors under the provisions of Government Code Sections 65300 et seq.

Marinas (land use). This land use consists of recreationally-oriented small craft harbors that may include mooring and launching facilities and accessory facilities for boat servicing. Mooring, launching, and service facilities oriented primarily toward the needs of commercial fishing are included under the definition of "Harbors." Marinas accommodating floating homes are defined as "Floating Home Marinas."

Marine Environment (coastal). The marine environment consists of the ocean, the high-energy coastline, and bays, inlets, lagoons, and estuaries subject to the tides. Marine habitats are affected by the waves and currents of the open ocean and the water regimes are determined primarily by the ebb and flow of oceanic tides.

Master Plan. See Chapter 22.44 (Master Plans and Precise Development Plans).

Medical Services - Clinics and Laboratories (land use). This land use consists of businesses primarily engaged in furnishing outpatient medical, mental health, surgical and other personal health services, but which are separate from hospitals, including:

- health management organizations (HMOs)
- medical and dental laboratories
- medical, dental and psychiatric offices
- out-patient care facilities
- other allied health services

Counseling services by other than medical doctors or psychiatrists are included under "Offices."

Medical Services – Extended Care (land use). This land use consists of the provision of nursing and health-related care as a principal use, with in-patient beds. This land use includes: board and care homes; convalescent and rest homes; extended care facilities; and skilled nursing facilities that are licensed or supervised by any federal, state, or local health/welfare agency. Long-term personal care facilities that do not emphasize medical treatment are included under "Residential Care Facilities," and "Group Homes."

Medical Services - Hospitals (land use). This land use consists of the provision of diagnostic services and extensive medical treatment, including surgical and other related services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care services. May include on-site accessory clinics and laboratories, accessory retail uses and emergency heliports (see the separate definition of "Accessory Retail Uses").

Membership Organization Facilities (land use). This land use consists of permanent headquarters and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for:

- business associations
- civic, social and fraternal organizations
- country clubs (golf courses separately defined)
- labor unions and similar organizations
- political organizations
- professional membership organizations
- other membership organizations

Metal Fabrication, Machine and Welding Shops (land use). This land use consists of the assembly of metal parts, including the following uses that produce metal duct work, tanks, towers, cabinets and enclosures, metal doors and gates, and similar products.

- blacksmith and welding shops
- sheet metal shops
- machine shops and boiler shops

Mezzanine. An intermediate floor placed within any story or room. If the total floor area of a mezzanine is more than one-third of the total floor area of the room, it shall be considered an additional story.

Mineral Resource Extraction (land use). This land use consists of the extraction from the ground of ~~hydrocarbons~~, gravel, or sand resources, or other commercial surface mining or underground mining and processing activity. Oil and gas well drilling, geothermal wells, production operations and related facilities are not permitted.

Mini Mart. A convenience retail store on the site of a service station, which typically sells food products and other products serving the needs of travelers.

Ministerial Permit. A permit granted for a development after applying fixed, objective standards with little or no subjective evaluation as to the wisdom or manner of carrying out the development project. Examples are Sign Permit, Large Family Day-care Permit, Homeless Shelter Permit, ~~Certificate of Compliance, Second Unit Permit~~, Final Map approval, and Building Permits. See also "Discretionary Permit."

Minor. Any person under 18 years of age.

Mixed Use. An existing or proposed development that includes more than one type of land use.

Mobile Home. A trailer, transportable in one or more sections, that is certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, which is over eight feet in width and 40 feet in length, with or without a permanent foundation and not including recreational vehicle, commercial coach or factory-built housing. A mobile home on a permanent foundation is included under the definition of "Single-Family Dwellings."

Mobile Home Park (land use). This land use consists of any site that is planned and improved to accommodate two or more mobile homes used for residential purposes, or on which two or more mobile home lots are rented, leased, or held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate mobile homes used for residential purposes.

Moor. The fixing of a vessel in one location, temporarily or permanently, by mooring, anchoring, grounding, or any other means.

Motel. See "Hotel or Motel."

Multi-Family Dwellings (land use). This land use consists of multiple detached dwellings on the same lot, or a building or a portion of a building used and/or designed as residences for two or more families living independently of each other. Includes: duplexes, triplexes, fourplexes and apartments (five or more units under one ownership in a single building); and townhouse development (three or more attached single-family dwellings where no unit is located over another unit. Second units and farm worker housing are not considered in the calculation of the number of units for this definition and do not convert a single-family development into a multi-family development.

Mutual Water Company. A state-licensed water purveyor providing domestic water to multiple residences, where the owners of property being served are shareholders in the company.

N. Definitions, "N."

NAVD (North American Vertical Datum). A vertical elevation control datum used in height measurements.

Native Tree. Any tree in the list "Trees Native to Marin County," maintained and provided by the Marin County Community Development Agency, or any other tree native to the State of California and the Marin County area.

Native Tree Removal (non-coastal). Generally means the destruction of any protected tree or the alteration of any protected tree which may adversely affect the health and survival of the tree. Includes "removal of a tree." Routine trimming and pruning is not considered tree removal for the purpose of this Chapter.

Natural Disaster. Any situation in which the natural force or forces which destroyed a structure were beyond the control of the owner, ~~including fire, flood, storm, explosion, landslide, earthquake, or other similar conditions.~~

Nature Preserves (land use). This land use consists of sites with environmental resources intended to be preserved in their natural state.

Negative Declaration. A written statement describing the reasons that a proposed project that is not otherwise exempt from the California Environmental Quality Act (CEQA) will not have a significant adverse effect on the environment and, therefore, does not require the preparation of an Environmental Impact Report (EIR). Please refer to CEQA Guidelines Section 15369.5 for a complete definition of a Negative Declaration.

New Development (coastal). For purposes of applying Section 30212 of the Coastal Act only, new development consists of any development other than the following:

- (1) Replacement of any structure pursuant to the provisions of subdivision (g) of Coastal Act Section 30610
- (2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.
- (3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.
- (4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.
- (5) Any repair or maintenance activity for which the Coastal Commission has determined by regulation, pursuant to Coastal Act Section 30610, that a coastal development permit will be required unless the Coastal Commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used ~~here~~ in this definition "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

Nonconforming Lot. A lot of record that was legally created, but does not conform with this Development Code because the lot is of a size, shape, or configuration no longer allowed in the zoning district that applies to the site, as a result of the adoption of, or amendments to this Development Code.

Nonconforming Structure. A structure that was legally constructed, but does not conform with this Development Code because amendments to this Development Code or the previous Marin County Zoning Ordinance made the structure nonconforming in its size, location on its site, separation from other structures, number of parking spaces provided, or other features.

Nonconforming Use A use of land, and/or within a structure, that was legally established, but does not conform with this Development Code because the use is no longer allowed in the zoning district that

applies to the site, as a result of amendments to this Development Code or the previous Marin County Zoning Ordinance.

O. Definitions, "O."

Oak Woodland Management Guidelines. The Oak Woodland Management Guidelines adopted by the Board and on file with the Agency.

Occupancy. The use or operation of a site or structure for an approved land use.

Off-Road Vehicle Courses (land use). This land use consists of areas set aside for the use of off-road vehicles, including dirt bikes, motorcycles, and four-wheel drive vehicles. Does not include sports assembly facilities (see "Sports Facilities and Outdoor Public Assembly"), or simple access roads that are usable only by four-wheel or two-wheel drive vehicles in conjunction with a permitted land use.

Off-Site Product. A product that is produced on property other than the site where it is offered for sale.

Offices, Business (land use). This land use consists of the provision of direct services to consumers. This land use includes establishments such as insurance agencies, real estate offices, and post offices (not including bulk mailing distribution centers, which are included under "Vehicle and Freight Terminals").

Does not include: medical offices (see "Medical Services - Clinics and Laboratories"); or offices that are incidental and accessory to another business or sales activity that is the principal use. Incidental offices that are customarily accessory to another use are allowed as part of an approved principal use.

Offices, Professional (land use). This land use consists of professional or government offices including:

- | | |
|---|--|
| - accounting, auditing and bookkeeping services | - educational, scientific and research organizations |
| - advertising agencies | - employment, stenographic, secretarial and word processing services |
| - architectural, engineering, planning and surveying services | - government offices including agency and administrative office facilities |
| - attorneys | - management, public relations and consulting services |
| - counseling services | - photography and commercial art studios |
| - court reporting services | - writers and artists offices outside the home |
| - data processing and computer services | |
| - detective agencies and similar services | |

Does not include: medical offices (see "Medical Services - Clinics and Laboratories") or offices that are incidental and accessory to another business or sales activity that is the principal use. Incidental offices that are customarily accessory to another use are allowed as part of an approved principal use.

Offices, Property Management (land use). This land use consists of accessory offices on the site of an apartment complex, mobile home park, or commercial facility, for the purpose of providing tenant services.

Offices, Temporary (land use). This land use consists of a mobile home, recreational vehicle or modular unit used as a temporary office facility. Temporary Offices may include: construction supervision offices on a construction site or off-site construction yard; a temporary on-site real estate office for a development project; or a temporary business office in advance of permanent facility construction.

Offices, Temporary Real Estate (land use). This land use consists of the temporary use of a dwelling unit within a residential development project as a sales office for the units on the same site, which is converted to residential use at the conclusion of its office use.

On-Site Product. A product that is produced on the same property where it is offered for sale.

Open Coastal Waters (coastal). The marine environment in the Coastal Zone.

Open Water. In conjunction with a Floating Home Marina, a privately owned or controlled water area, which is devoid of any structure or appurtenances including mooring facilities for any vessels or piers, docks, ramps, walkways or other exit ways.

Organizational Houses (land use). This land use consists of residential lodging houses operated by membership organizations for their members and not open to the general public. Includes fraternity and sorority houses.

Original Lot. A contiguous area of real property under one ownership, which is proposed for division in compliance with Article VI (Subdivisions) of this Development Code.

Outdoor Commercial Recreation (land use). This land use consists of facilities for various outdoor participant sports and types of recreation where a fee is charged for use, including:

- amusement and theme parks
- drive-in theaters
- go-cart and miniature auto race tracks
- golf driving ranges separate from golf courses
- health and athletic club outdoor facilities
- miniature golf courses
- skateboard parks
- swim and tennis clubs
- tennis courts
- water slides
- zoos

May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, fast-food restaurants, video game arcades, etc. Spectator facilities are included in the definition of "Sport Facilities and Outdoor Public Assembly."

Outdoor Retail Sales and Activities (land use). This land use consists of the outdoor retail sale or rental of autos and other vehicles and equipment, lumber, and other uses where the business is not conducted entirely within a structure.

Outdoor Retail Sales, Temporary (land use). This land use consists of the temporary outdoor retail sales activities, examples of which include:

- Christmas trees, pumpkins or the sale of other seasonal items
- semi-annual sales of art/handcrafted items in conjunction with community festivals or art shows
- sidewalk or parking lot sales longer than one weekend
- retail sales in temporary locations outside the public right-of-way

Farmer's markets are separately defined.

P. Definitions, "P."

Paper Products (land use). This land use consists of the manufacture of paper and paperboard, from both raw and recycled materials, and their conversion into products such as paper bags, boxes, envelopes, wallpaper, etc.

Paper Street. Any street, road, or public vehicular access, or portion thereof, shown on a subdivision map recorded prior to April 3, 1953, which is undeveloped and/or unimproved, excluding "driveways", as previously defined.

Parcel. A unit of real property.

Parcel (coastal). See "Legal Lot (coastal) of Record"

Parcel Map. The subdivision map described by the Subdivision Map Act, Article 3, Chapter 2, which is required by Article VI (Subdivisions) of this Development Code to complete a subdivision of four or fewer lots.

Parking Structure. Parking space or shelter for automobiles or other vehicles.

1. A garage is an attached or detached accessory structure, which is enclosed on at least three sides;
2. A carport is an attached or detached accessory structure, which is enclosed on no more than two sides;
3. A car deck is an unenclosed and uncovered platform providing off-street parking spaces, normally constructed at the street level of a sloping lot.

Parks and Playgrounds (land use). This land use consists of public parks, play lots, playgrounds, and athletic fields for non-commercial neighborhood or community use, including tennis courts. If privately-owned, the same facilities are included under the definition of "Private Residential Recreation Facilities." See also "Golf Courses/Country Clubs," "Outdoor Commercial Recreation," and "Sport Facilities and Outdoor Public Assembly."

Paving and Roofing Materials (land use). This land use consists of the manufacture of various common paving and petroleum-based roofing materials, including bulk asphalt, paving blocks made of asphalt, creosote wood and various compositions of asphalt and tar. The manufacture of wood roofing materials (shingles, shakes, etc.) is included under "Lumber and Wood Products."

Permitted Use. A land use allowed by Article II (Zoning Districts and Allowable Land Uses) subject to compliance with all applicable provisions of this Development Code, and subject to first obtaining any building permit or any other permit required by the County Code.

Permitted Use (coastal). A land use allowed by Article V (Zoning Districts and Allowable Land Uses) subject to compliance with all applicable provisions of ~~this Development Code~~ the LCP, and subject to first obtaining any building permit or any other permit required by the County Code. County actions on Coastal Permits allowing such uses are appealable to the California Coastal Commission. [See Section 22.70.080.B.1 for Appeal of Coastal Permit Decisions]

Person. Any natural person, partnership, cooperative association, private corporation, public corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

Person (coastal): Any individual, organization, partnership, limited liability company, or other business association or corporation, including any utility, and any federal, state, local government, or special district or an agency thereof.

Personal Services (land use). This land use consists of the provision of non-medically related services. Examples of facilities included in this land use include: beauty and barber shops; clothing rental; dry cleaning pick-up stores; laundromats (self-service laundries); psychic readers; shoe repair shops; tanning salons. These uses may also include accessory retail sales of products related to the services provided.

Pipelines and Utility Lines (land use). This land use consists of transportation facilities for the conveyance of water or commodities other than petroleum. Also includes pipeline surface and terminal facilities, including pump stations, bulk stations, surge and storage tanks. Utility lines include facilities for the transmission of electrical energy for sale, including transmission lines for a public utility company. Also includes telephone, telegraph, cable television and other communications transmission facilities utilizing direct physical conduits. Does not include offices or service centers (see "Offices"), or distribution substations (see "Public Utility Facilities").

Planned District. Any zoning district established by Sections 22.06.020 (Zoning Districts Established), and Article V (Coastal Zones – Permit Requirements and Development Standards), that is not included under the definition of "Conventional District" provided by this Chapter. The planned districts include:

C-APZ (Coastal, Agricultural Production Zone)	RX (Residential, Mobile Home Park)RF
ARP (Agricultural, Residential Planned)	(Residential, Floating Home Marina)
C-ARP (Coastal, Agricultural, Residential Planned)	RMPC (Residential/Commercial Multiple Planned)
RSP (Residential, Single-Family Planned)	CP (Planned Commercial)
C-RSP (Coastal, Residential, Single-Family Planned)	OP (Planned Office)
C-RSPS (Coastal, Residential, Single-Family Planned, Seadrift Subdivision)	RCR (Resort and Commercial Recreation)
RMP (Residential, Multiple Planned)	C-RCR (Coastal, Resort and Commercial Recreational)
C-RMP (Coastal, Residential, Multiple Planned)	C-RMPC (Coastal, Residential/Commercial Multiple Planned)
	C-CP (Coastal, Planned Commercial)
	I-P (Industrial, Planned)
	RF (Floating Home Marina)

Planning Commission. The Marin County Planning Commission, appointed by the Board of Supervisors as provided by Government Code Section 65101, and Title 2 of the Marin County Code, referred to throughout this Development Code as the "Commission."

Plant Nurseries (land use). This land use consists of the commercial production of ornamental plants and other nursery products, grown under cover or outdoors. May include establishments engaged in the sale of such products, and commercial scale greenhouses. The sale of house plants or other nursery products is also included under "Retail Stores, General Merchandise." Home greenhouses are included under "Residential Accessory Uses and Structures."

Plastics and Rubber Products (land use). This land use consists of the manufacture of rubber products such as: tires; rubber footwear; mechanical rubber goods; heels and soles; flooring; and other rubber products from natural, synthetic or reclaimed rubber. Also includes establishments engaged primarily in manufacturing tires. Also includes: establishments engaged in molding primary plastics for other manufacturers, and manufacturing miscellaneous finished plastics products; fiberglass manufacturing, and fiberglass application services. Establishments engaged primarily in recapping and retreading automobile tires are classified in "Auto, Mobile home, Vehicle and Supplies Sales."

Playground. See "Parks and Playgrounds."

Poster Board. A sign consisting of a framed or unframed surface, freestanding or attached to a wall or fence or other structure, designed and located only for the display of announcements of coming performances of cultural, educational, and athletic events.

Precise Development Plan. See Chapter 22.44 (Master Plans and Precise Development Plans).

Premise(s). The site of a land use or activity subject to the requirements of this Development Code.

Prescriptive Rights (coastal). Public rights that are acquired over private lands through use as defined by California law.

Primary Structure. See "Structure, primary."

Primary Zoning District. One of the agricultural, residential, commercial, or special purpose zoning districts established by Sections 22.06.020 (Zoning Districts Established) and Article V (Coastal Zones – Permit Requirements and Development Standards), that is applied to a site by the Zoning Map in addition to one or more of the combining districts established by Section 22.06.020.

Principal Permitted Use (coastal). ~~A-The principal~~ land use allowed by Article V (Zoning Districts and Allowable Land Uses) ~~including activities which are functionally related to one another so as to be viewed as effectively one use type or group.~~ Such uses are subject to compliance with all applicable provisions of this Development Code, and subject to first obtaining any building permit or any other permit required by the County Code. Any use that requires a Coastal Zone Variance shall not be considered a principal permitted use. [See Section 22.70.080.B.1 for Appeal of Coastal Permit Decisions]

Principal Structure (coastal). The primary ~~use or~~ structure on the property.

Printing and Publishing (land use). This land use consists of printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying, and other "quick printing" services; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; and establishments manufacturing business forms and binding devices.

Private Residential Recreation Facilities (land use). This land use consists of privately-owned, non-commercial outdoor recreation facilities provided for members or project/neighborhood residents, including swim and tennis clubs, park and sport court facilities. Does not include golf courses/country clubs, which are separately defined.

Private Road. A street or right-of-way owned and maintained by a private person(s) or entity(ies).

Project. See "Development, or Project."

Property Line. See "Lot Line or Property Line."

Proposed Parcel(s). Each separate parcel shown on a tentative map or lot line adjustment, as proposed by an applicant.

Protected Tree and Heritage Tree. Any one of the following as indicated in the table below:

Common Name	Botanical Name	Protected Size	Heritage Size
		Diameter at Breast Height	Diameter at Breast Height
Arroyo willow	<i>S. lasiolepis</i>	6 inches	18 inches
Big-leaf maple	<i>Acer macrophyllum</i>	10 inches	30 inches
Bishop pine	<i>Pinus muricata</i>	10 inches	30 inches
Blue oak	<i>Q. douglasii</i>	6 inches	18 inches
Box elder	<i>A. negundo</i> var.	10 inches	30 inches
	<i>californicum</i>		
California bay	<i>Umbellularia</i>	10 inches	30 inches
	<i>californica</i>		

California black oak	<i>Q. kelloggii</i>	6 inches	18 inches
California buckeye	<i>Aesculus californica</i>	10 inches	30 inches
California nutmeg	<i>Torreya californica</i>	10 inches	30 inches
Canyon live oak	<i>Q. chrysolepis</i>	6 inches	18 inches
Chaparral oak	<i>Q. wislizeni</i>	6 inches	18 inches
Coast live oak	<i>Quercus agrifolia</i>	6 inches	18 inches
Coast redwood	<i>Sequoia sempervirens</i>	10 inches	30 inches
Douglas-fir	<i>Pseudotsuga menziesii</i>	10 inches	30 inches
Giant Chinquapin	<i>Castanopsis chrysophylla</i>	10 inches	30 inches
Hawthorn	<i>Crataegus douglasii</i>	10 inches	30 inches
Mountain-mahogany	<i>Cercocarpus betuloides</i>	10 inches	30 inches
Narrow leaved willow	<i>Salix exigua</i>	6 inches	18 inches
Oak	<i>Q. parvula</i> var. <i>shrevei</i>	6 inches	18 inches
Oregon ash	<i>Fraxinus latifolia</i>	10 inches	30 inches
Oregon oak	<i>Q. garryana</i>	6 inches	18 inches
Pacific madrone	<i>Arbutus menziesii</i>	6 inches	
Pacific yew	<i>Taxus brevifolia</i>	10 inches	30 inches
Red alder	<i>A. rubra</i>	10 inches	30 inches
Red elderberry	<i>Sambucus callicarpa</i>	10 inches	30 inches
Red willow	<i>S. laevigata</i>	6 inches	18 inches
Sargent cypress	<i>Cupressus sargentii</i>	6 inches	18 inches
Scouler's willow	<i>S. scouleriana</i>	6 inches	18 inches
Service-berry	<i>Amelanchier alnifolia</i>	10 inches	30 inches
Shining willow	<i>S. lucida</i> ssp. <i>lasiandra</i>	6 inches	18 inches
Silk tassel	<i>Garrya elliptica</i>	10 inches	30 inches
Sitka willow	<i>S. sitchensis</i>	6 inches	18 inches
Tanbark oak	<i>Lithocarpus densiflorus</i>	10 inches	30 inches
Valley oak	<i>Q. lobata</i>	6 inches	18 inches
Wax myrtle	<i>Myrica californica</i>	10 inches	30 inches
White alder	<i>Alnus rhombifolia</i>	10 inches	30 inches

Public Access Deed Restriction (coastal). A legal document that places responsibilities upon the landowner relative to public use within a specifically defined area of the property, in order to allow for a public accessway.

Public Access Offer to Dedicate (OTD) (coastal). A legal document that offers an easement across private land for a future public accessway. ~~In order to effectuate the OTD and open the accessway or stairway for public use, it must be accepted for management by a responsible agency and then improved, if necessary, and opened. No offer of dedication shall be used or construed to allow anyone, prior to acceptance of the Offer, to interfere with any rights of public access acquired through use that may exist on the Property or use the property in a manner that would prevent effectuation of the Offer to Dedicate.~~

Public Road. A street or highway owned and maintained by the County, a City, the State, or the federal government.

Public Safety/Service Facilities (land use). This land use consists of facilities operated by public agencies including fire stations, other fire prevention and firefighting facilities, police and sheriff substations and headquarters, including interim incarceration facilities, and civic buildings.

Public Utility Facilities (land use). This land use consists of fixed-base structures and facilities serving as junction points for transferring utility services from one transmission voltage to another or to local distribution and service voltages. These uses include any of the following facilities that are not exempted from land use permit requirements by Government Code Section 53091:

- corporation and maintenance yards
- electrical substations and switching stations
- natural gas regulating and distribution facilities
- public water system wells, treatment plants and storage
- telephone switching facilities
- wastewater treatment plants, settling ponds and disposal fields

These uses do not include office or customer service centers (classified in "Offices").

Public Works (Coastal).

(a) All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

(b) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.

(c) All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.

(d) All community college facilities.

See also "Major Public Works (coastal)".

Q. Definitions, "Q."

Quarry. See "Surface Mining."

R. Definitions, "R."

Recreational Vehicle (RV). A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, originally designed for human habitation for recreational, emergency, or other occupancy, which is not used for other than transient use, and which meets all of the following criteria:

1. It contains less than 320 square feet of internal living room area, excluding built-in equipment, including wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms;
2. It contains 400 square feet or less of gross area measured at maximum horizontal projections;
3. It is built on a single chassis; and
4. It is either self-propelled, truck-mounted, or permanently towable on the highways without a towing permit.

Recreational Vehicle Park (land use). This land use consists of a site where one or more lots are used, or are intended to be used, by campers with recreational vehicles or tents on a transient basis. Recreational vehicle parks may include public restrooms, water, sewer, and electric hookups to each lot and are intended as a higher density, more intensively developed use than campgrounds. May include accessory retail uses where they are clearly incidental and intended to serve RV park patrons only.

Recycling Facilities (land use). This land use type includes a variety of facilities involved with the collection, sorting and processing of recyclable materials.

1. **Mobile Recycling Unit.** An automobile, truck, trailer, or van used for the collection of recyclable materials, and carrying bins, boxes, or other containers for such materials.
2. **Processing Facility.** A structure or enclosed space used for the collection and processing of recyclable materials for shipment, or to an end-user's specifications, by such means as baling, briquetting, cleaning, compacting, crushing, flattening, grinding, mechanical sorting, remanufacturing and shredding. Processing facilities include the following types, both of which are included under the definition of "Scrap and Dismantling Yards:"
 - a. Light processing facility occupies an area of under 45,000 square feet of collection, processing and storage area, and averages two outbound truck shipments each day. Light processing facilities are limited to baling, briquetting, compacting, crushing, grinding, shredding and sorting of source separated recyclable materials sufficient to qualify as a certified processing facility. A light processing facility shall not shred, compact, or bale ferrous metals other than food and beverage containers; and
 - b. A heavy processing facility is any processing facility other than a light processing facility.
3. **Recycling Facility.** A center for the collection and/or processing of recyclable materials. A "certified" recycling or processing facility is certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986. A recycling facility does not include storage containers located on a residentially, commercially or industrially designated site used solely for the recycling of material generated on the site. See "Collection Facility" above.
4. **Recycling or Recyclable Material.** Reusable domestic containers and other materials which can be reconstituted, remanufactured, or reused in an altered form, including glass, metals, paper and plastic. Recyclable material does not include refuse or hazardous materials.
5. **Reverse Vending Machine.** An automated mechanical device which accepts at least one or more types of empty beverage containers and issues a cash refund or a redeemable credit slip

with a value not less than the container's redemption value, as determined by state law. These vending machines may accept aluminum cans, glass and plastic bottles, and other containers.

A bulk reverse vending machine is a reverse vending machine that is larger than 50 square feet, is designed to accept more than one container at a time, and issues a cash refund based on total weight instead of by container.

6. Scrap and Dismantling Yards. See "Junk Yard."

Redevelopment (coastal). Development that is located outside of blufftop or shoreline areas that meet criteria A or B below:

A. Development that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, and/or (3) demolition of an existing bluff home or other principal structure, or portions thereof, which results in:

(1) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.

(2) Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LUP; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area, taking into consideration previous additions approved on or after the date of certification of the LUP.

B. Development that consists of any alteration of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction, as per National Flood Insurance Program (NFIP) requirements administered by the Federal Emergency Management Agency (FEMA).

For the purposes of this definition:

An exterior wall is considered to be altered 50% or more when any of the following occur either above or below grade:

(a) Exterior cladding and/or framing systems are altered in a manner that requires removal and/or replacement of 50% or more of the elements of those cladding and framing systems, normally considered as linear length of wall.

(b) Reinforcement is needed for any remaining portions of the wall to provide structural support in excess of 50% of existing support elements (e.g. addition of 50% or more of beams, shear walls, or studs whether alone or alongside the existing/retained elements).

A floor or roof structure is considered to be altered 50% or more when any of the following occur:

(a) The roof or floor framing is altered in a manner that requires removal and/or replacement of structural elements (e.g. trusses, joists, rafters) supporting 50% or more of the square footage of the roof or floor.

(b) The roof or floor structural framing system requires additional reinforcement to any remaining portions of the roof or floor system to provide structural support (e.g. addition

of 50% or more of beams, joists, and/or rafters, etc., whether alone or alongside existing/retained system elements).

A foundation is considered to be altered 50% or more when any work is done on any of the following:

(a) 50% or more of the horizontal surface area of a slab foundation.

(b) 50% or more of the floor area of a structure supported by a pier/post and/or caisson/grade beam foundation.

(c) 50% or more of a perimeter foundation.

Major structural component alterations generally do not include changes to roof coverings; replacement of glass or doors in existing window or door openings; replacement of window or door framing when the size and location of the window/door remains unchanged; repair of roofs or foundations without any change to structural supporting elements; changes to exterior siding; repair, maintenance, and replacement of chimneys; and interior changes to non-structural interior walls and sheetrock, insulation, fixtures, and mechanical, electrical and plumbing elements.

Redevelopment, Coastal (coastal). Development that is located on bluffs or at or near the ocean-sand interface and/or at very low lying elevations along the shoreline that meet criteria A or B below:

A. Development that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, and/or (3) demolition of an existing bluff home or other principal structure, or portions thereof, which results in:

(1) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.

(2) Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LUP; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area, taking into consideration previous additions approved on or after the date of certification of the LUP.

B. Development that consists of any alteration of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction, as per National Flood Insurance Program (NFIP) requirements administered by the Federal Emergency Management Agency (FEMA).

For the purposes of this definition:

An exterior wall is considered to be altered 50% or more when any of the following occur either above or below grade:

(a) Exterior cladding and/or framing systems are altered in a manner that requires removal and/or replacement of 50% or more of the elements of those cladding and framing systems, normally considered as linear length of wall.

(b) Reinforcement is needed for any remaining portions of the wall to provide structural support in excess of 50% of existing support elements (e.g. addition of 50% or more of beams, shear walls, or studs whether alone or alongside the existing/retained elements).

A floor or roof structure is considered to be altered 50% or more when any of the following occur:

(a) The roof or floor framing is altered in a manner that requires removal and/or replacement of structural elements (e.g. trusses, joists, rafters) supporting 50% or more of the square footage of the roof or floor.

(b) The roof or floor structural framing system requires additional reinforcement to any remaining portions of the roof or floor system to provide structural support (e.g. addition of 50% or more of beams, joists, and/or rafters, etc., whether alone or alongside existing/retained system elements).

A foundation is considered to be altered 50% or more when any work is done on any of the following:

(a) 50% or more of the horizontal surface area of a slab foundation.

(b) 50% or more of the floor area of a structure supported by a pier/post and/or caisson/grade beam foundation.

(c) 50% or more of a perimeter foundation.

Major structural component alterations generally do not include changes to roof coverings; replacement of glass or doors in existing window or door openings; replacement of window or door framing when the size and location of the window/door remains unchanged; repair of roofs or foundations without any change to structural supporting elements; changes to exterior siding; repair, maintenance, and replacement of chimneys; and interior changes to non-structural interior walls and sheetrock, insulation, fixtures, and mechanical, electrical and plumbing elements.

Referral. Any transmittal, notification, posting, consultation, request for or distribution of information, initiated by the Agency to communicate with other agencies, organizations, groups or the public that pertains to a proposed project.

Religious Places of Worship (land use). This land use consists of religious facilities operated by organizations for worship, or the promotion of religious activities, including:

- churches
- synagogues
- mosques
- religious schools

Includes accessory uses on the same site, such as living quarters for ministers and staff, and child day care facilities where authorized by the same type of land use permit required for the religious facility itself. Does not include other establishments maintained by religious organizations, such as full-time educational institutions, hospitals and other potentially related operations (such as a recreational camp), which are defined under their respective activities.

Religious Residential Retreat (land use). This land use consists of convents, monasteries, and other facilities where members of religious organizations set themselves apart from the external community for short- or long-term periods to participate in worship and other religious activities.

Repair and Maintenance (coastal). Development which does not result in an addition to, enlargement or expansion of the object of the repair and maintenance. 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 but instead constitutes a replacement structure (see also "Redevelopment (coastal)" and "Redevelopment, Coastal (coastal)").

Repair and Maintenance - Consumer Products (land use). This land use consists of the repair of consumer products as the principal business activity. Examples of establishments included in this land use are: electrical repair shops; television and radio and other appliance repair; watch, clock and jewelry repair; re-upholstery and furniture repair. Does not include shoe repair (see "Personal Services"), or businesses serving the repair needs of heavy equipment (see "Business Support Services").

Repair and Maintenance - Vehicle (land use). This land use generally consists of the repair, alteration, restoration, towing, painting, cleaning (including self-service and attended car washes), or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a principal use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This use includes major and minor facilities. Major vehicle repair facilities deal with entire vehicles. Minor facilities specialize in limited aspects of repair and maintenance (i.e., muffler and radiator shops, quick-lube, etc.).

Includes tire recapping establishments. Does not include automobile parking (see "Commercial Parking and Vehicle Storage"), repair shops that are part of a vehicle dealership on the same site (see "Auto, Mobile home, Vehicle and Parts Sales"); automobile service stations, which are separately defined; or automobile dismantling yards, which are included under "Recycling, Scrap and Dismantling Yards."

Resale Controls. Legal restrictions by which the price of affordable housing units will be controlled to ensure that the units remain affordable to extremely low, very low, low or moderate-income County households, as applicable, over a specified period of time.

Research and Development (land use). This land use consists of scientific research, and the design, development and testing of computer software, and electrical, electronic, magnetic, optical and mechanical components in advance of product manufacturing, not associated with a manufacturing facility on the same site. Includes chemical and biotechnology research and development. Does not include soils and other materials testing laboratories (see "Business Support Services"), or medical laboratories (see "Medical Services - Clinics and Labs").

Residence. See "Dwelling, or Dwelling Unit."

Residential Accessory Uses and Structures (land use). This land use consists of and includes any use that is customarily a part of, and clearly incidental and secondary to, a residence and does not change the character of the residential use. These uses include the following accessory structures, and other similar structures and uses normally associated with a residential use of property:

- garages
- storage sheds
- gazebos
- studios
- greenhouses
- swimming pools
- spas and hot tubs
- workshops
- ~~- roof-mounted WECS~~
- solar collectors
- rainwater cisterns and collectors

Also includes community gardens and the indoor storage of owner or occupant owned automobiles (including their incidental restoration and repair), personal recreational vehicles and other personal property, accessory to a residential use. Does not include home satellite dish and other receiving antennas for earth-based TV and radio broadcasts; see "Telecommunications Facilities."

Residential Care Facilities (land use). This land use consists of a dwelling unit licensed or supervised by any federal, state, or local health/welfare agency which provides 24-hour nonmedical care of

unrelated persons who are disabled and in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment. This land use includes licensed senior care facilities. For purposes of calculating residential densities, a unit that contains a food preparation area is not counted as a separate residential unit if meal service is provided at least twice a day as part of the residential care component.

Residential District or Zone. This designation includes any of the residential zoning districts established by Sections 22.06.020 (Zoning Districts Established) and Article V (Coastal Zones – Permit Requirements and Development Standards), including:

RA (Residential, Agricultural)	C-RA (Coastal, Residential, Agricultural)
RR (Residential, Restricted)	C-R1 (Coastal, Residential, Single-Family)
RE (Residential, Estate)	C-RSP (Coastal, Residential, Single-Family Planned)
R1 (Residential, Single-Family)	C-RSPS (Coastal, Residential, Single-Family Planned, Seadrift Subdivision)
RSP (Residential, Single-Family Planned)	C-R2 (Coastal, Residential, Two-Family)
R2 (Residential, Two-Family)	C-RMP (Coastal, Residential, Multiple Planned)
RMP (Residential, Multiple Planned)	
RX (Residential, Mobile Home Park)	
RF (Residential, Floating Home Marina)	

Residential Second Unit (land use). This land use consists of a second permanent dwelling that is accessory to a primary dwelling on the same site. A residential second unit provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, food preparation, sanitation, and parking. The primary criterion for defining a second unit shall be the existence of separate food preparation facilities which may include but are not limited to stove, oven, hot plate, refrigerator or sink. Also see Existing Residential Second Units.

Restaurant (land use). This land use consists of the retail sale of prepared food and beverages for on-site consumption. This Development Code distinguishes between restaurants (including cafes and coffee shops) designed to accommodate 40 or fewer patrons, more than 40 patrons, and restaurants that serve alcohol and/or provide live entertainment.

Restaurant, Fast Food (land use). This land use consists of restaurants where customers are served prepared food from a walk-up ordering counter, or drive-through window, for either on- or off-site consumption.

Resubdivision. Changing the street alignment, lot configuration, or drainage of an existing subdivision, except through the Lot Line Adjustment process described in Chapter 22.90 (Lot Line Adjustments). Resubdivision constitutes development for the purposes of this LCP.

Retail Stores, General Merchandise (land use). This land use consists the retail sale of many lines of merchandise. Examples of the types of merchandise, and stores included within this land use are:

- | | |
|--|--|
| - artists' supplies | - hobby materials |
| - auto parts (not repair or machine shops) | - jewelry |
| - bakeries (retail only) | - luggage and leather goods |
| - bicycles | - musical instruments, parts and accessories |
| - books | - newsstands |
| - cameras and photographic supplies | - orthopedic supplies |
| - clothing and accessories | - pet stores |
| - department stores | - religious goods |
| - drug and discount stores | - shoe stores |

- dry goods
- fabrics and sewing supplies
- florists and houseplant stores
- garden supply stores and sale of houseplants and nursery products
- general stores
- grocery stores
- hardware
- small wares
- specialty shops
- sporting goods and equipment
- stationery
- toys and games
- variety stores

Retail Stores, Visitor/Collector (land use). This land use consists of the retail sale of products oriented primarily toward visitors to Marin County and/or collectors other than local resident populations. Examples of the stores and products included under this land uses are antiques, art galleries, gift, souvenir, and curio shops, and handcraft sales (stores may include crafting subordinate to sales).

Retreat Rate. The rate at which wave action and other coastal hazard and erosion processes will cause a coastal bluff or shoreline to erode and/or retreat.

Review Authority. The Board of Supervisors, Health Officer, Planning Commission, Zoning Administrator, ~~or~~ Community Development Director, and, in cases of Coastal Permit appeals, the Coastal Commission, where designated by this Development Code as having the responsibility and authority to review, approve, or deny land use and development applications in compliance with this Development Code.

Ridge and Upland Greenbelts. The uppermost portions of hills, and the wooded hillsides identified in the Built Environment Element of the Marin Countywide Plan.

Right-to-Farm Ordinance. An ordinance that was adopted in compliance with the Marin Countywide Plan for the purpose of protecting existing or future agricultural uses.

Riparian Vegetation (coastal). Vegetation associated with a watercourse and relying on the higher level of water provided by the watercourse. Riparian vegetation can include trees, shrubs, and/or herbaceous plants. Woody riparian vegetation includes plants that have tough, fibrous stems and branches covered with bark and composed largely of cellulose and lignin. Herbacious riparian vegetation includes grasses, sedges, rushes and forbs – broad-leaved plants that lack a woody skeleton.

Room Rental (land use). This land use consists of the rental of bedrooms within a dwelling or accessory structure, excluding a guest house, ~~whether or not~~ where meals are not provided. This use is subordinate to the primary residential use of the property.

Rural Recreation (land use). This land use consists of facilities for outdoor recreational activities including: outdoor archery, pistol, rifle, and skeet shooting ranges and clubs; rodeo facilities; guest ranches; and health resorts including outdoor hot springs or hot tub facilities. Hunting and fishing clubs are separately defined.

S. Definitions, "S."

Sale of Agricultural Products (land use). This land use consists of retail sales of agricultural products. Includes seasonal structures, such as roadside stands, which are open structures for retail sales, and permanent structures for year-round sales. Does not include hay, grain and feed sales (see "Farm Equipment and Supplies").

SCA. See "Stream Conservation Area."

Schools (land use). This land use consists of public and private educational institutions, including:

- boarding schools
- business, secretarial, and vocational schools
- community colleges, colleges and universities
- elementary, middle, and junior high schools
- establishments providing courses by mail
- high schools
- military academies
- professional schools (law, medicine, etc.)
- seminaries/religious ministry training facilities
- pre-schools

Also includes specialized non-degree granting schools offering instruction in:

- art
- ballet and other dance
- computers and electronics
- drama
- driver education
- language
- music

Also includes facilities, institutions and conference centers that offer specialized programs in personal growth and development, such as fitness, environmental awareness, arts, communications, and management. Includes child day-care facilities where authorized by the same type of land use permit required for the school itself.

Scrap. See "Junk."

Sea (coastal). The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding non-estuarine rivers, streams, tributaries, creeks, and flood control and drainage channels. "Sea" does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, including any river, stream, tributary, creek, or flood control or drainage channel flowing directly or indirectly into such area.

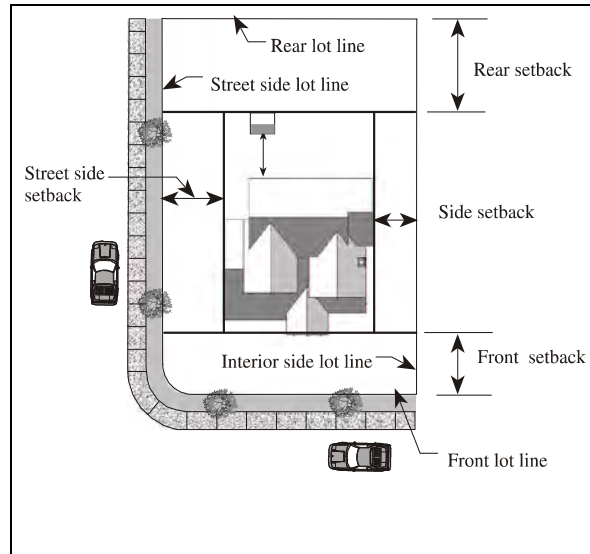
Second Hand Stores (land use). This land use consists of the purchase and retail sale of used products, including books, clothing, furniture and household goods. The sale of antiques is included under "Retail Stores, Visitor/Collector." The sale of cars and other used vehicles is included under "Auto, Mobile Home, Vehicle and Parts Sales."

Second Unit (coastal). See "Residential Second Unit"

Septic System. An on-site sewage disposal system consisting of a septic tank, and a soil infiltration leach field, evapotranspiration mound, or other approved disposal facility. See also "Individual Sewage Disposal System (Coastal)."

Setback (front, side and rear). The distance by which a structure is required to be separated from a lot line, measured perpendicular to the lot line. Setbacks from private streets and driveways are measured from the edge of the easement. See also "Yard." Figure 8-6 (Setbacks) shows the location of front, side, street side, and rear setbacks.

**FIGURE 8-6
SETBACKS**



Service Station (land use). This land use consists of the retail sale of gasoline or other motor vehicle fuels, which may also include services incidental to fuel sales. These incidental services may include vehicle engine maintenance and repair, towing and trailer rental services. Does not include the storage or repair of wrecked or abandoned vehicles, vehicle painting, body or fender work, or the rental of vehicle storage or parking spaces.

Sewage Disposal System (coastal). See "Individual Sewage Disposal System (Coastal)"

Shopping Center (land use). This land use consists of structures with six or more independently operated retail uses whose combined gross floor area totals at least 20,000 square feet, and which are located on a site where any underlying separate lots are tied together by a binding legal agreement providing rights of reciprocal parking and access.

Shore (coastal). ~~A narrow strip of land in immediate contact with the sea, including the zone between high and low water. A shore of unconsolidated material is usually called a beach.~~

Shoreline (coastal). The intersection of the ocean or sea with land; the line delineating the shoreline on National Ocean Service nautical charts and surveys approximates the mean low water line from the time the chart was prepared.

Shoreline Parcel (coastal). A parcel located wholly or partially along the shoreline.

Shoreline Protective Device (coastal). ~~A structure device (such as a seawall, revetment, riprap, or bulkhead, deep piers/caissons, bluff retention device, etc.) built parallel to the shoreline for the purpose of serving a coastal-dependent use, or protecting an existing structure, coastal-dependent use, or public beach in danger or other upland property from erosion.~~

Sign. Any display or device which is intended to or may, in the judgment of the Director, communicate an advertisement, announcement, direction, identity, or other message to attract, and/or distract, hold, direct, or focus the attention of, persons on public property or on private property generally open to members of the public. A sign ~~shall~~ includes any moving part, lighting, sound equipment, framework, background material, structural support, or any other part. (See, Sign Area). A display or device need not contain any lettering to be considered a sign.

Sign Area. Sign area consists of the message, background and any frame or outline and does not include any material used exclusively for structural support. Where a sign message has no background material or where the background is an undifferentiated wall, the area shall consist of the smallest convex shape which encompasses the total message. The area of a conic, cylindrical, spheric or multifaced sign shall be its maximum projection on the vertical plane (e.g., for a two-faced sign, only one side shall be measured).

Significant Tobacco Retailer. Any tobacco retailer engaged in the sale and/or distribution of tobacco products or paraphernalia to the general public, excluding wholesale businesses, that either devotes 20% or more of floor area or display area to, or derives 75% or more of gross sales receipts from, the sale or exchange of tobacco products and/or tobacco paraphernalia.

Single-Family Dwellings (land use). This land use consists of a building designed for and/or occupied exclusively by one family. Also includes factory-built, modular housing units, constructed in compliance with the California Building Code (CBC), and mobile homes/manufactured housing on permanent foundations.

Single-Family Residential Zoning District. A zoning district listed in Articles II (Zoning Districts and Allowable Land Uses) and V (Coastal Zones - Permit Requirements and Allowable Land Uses) which allows single-family dwellings, but not two-family or multi-family dwellings. These zoning districts include:

RA (Residential, Agricultural)	C-RA (Coastal, Residential, Agricultural)
RR (Residential, Restricted)	C-R1 (Coastal, Residential, Single Family)
RE (Residential, Estate)	C-RSP (Coastal, Residential, Single-Family Planned)
R1 (Residential, Single-Family)	
RSP (Residential, Single-Family Planned)	C-RSPS (Coastal, Residential, Single-Family Planned, Seadrift Subdivision)
RX (Residential, Mobile Home Park)	
RF (Residential, Floating Home Marina)	A2B (Agriculture, Limited)

Districts zoned A for agricultural uses, other than those listed above, are not included in this definition.

Site. A lot or parcel, or adjoining lots or parcels under single ownership or single control, which is considered a unit for the purposes of development or other use.

Site Coverage. See "Lot Coverage."

Skilled Nursing Facility. A medical care facility providing care for physically or mentally disabled persons, where care is less than that provided by a hospital or other acute care facility. See "Medical Services - Extended Care."

Slaughterhouses and Rendering Plants. Slaughterhouses are establishments primarily engaged in slaughtering cattle, hogs, sheep, lambs, calves, rabbits and fowl for meat to be sold or to be used on the same site in canning, curing and freezing, and in the making of sausage, lard, and other products. Rendering plants are engaged in the rendering of inedible stearin, grease, and tallow from animal fat, bones, and meat scraps.

Slope. The average slope of a lot, or portion thereof, expressed as a percent, which is calculated as follows:

$$S = (L \times I \times 100) / A$$

Where:

- S = The average slope of natural ground expressed as a percent
- I = The topographic contour interval in feet (i.e., 2-foot contour intervals, 5-foot contour intervals, etc.)
- L = The sum of the length of the contour lines expressed in feet
- A = The area of the lot, or portion thereof, expressed in square feet

This definition assumes that slope calculations are based on accurate topographic survey maps drawn to a scale of not less than one inch equals 100 feet, with contour lines at maximum 10-foot intervals for ground slope over 15 percent, and at five-foot intervals for ground slope of 15 percent or less.

Slope Ordinance. Minimum lot area requirements established based on slope. See Section 22.82.050 (Hillside Subdivision Design).

Small Family Day-Care Homes (land use). See "Child Day-Care Facilities."

Snack Bar. An area within a residence that accommodates small food preparation appliances, such as a toaster, microwave, and refrigerator and may include a small wetbar-type sink, but not a full-sized refrigerator, stove, or food preparation area. A snack bar is accessory to the primary food preparation facility within the residential unit and is not treated as a separate food preparation facility for purposes of calculating the residential density on the lot.

Solar Energy System (coastal). As used in the Marin County Local Coastal Program, "solar energy system" means either of the following:

- (1) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electricity generation, or water heating.
- (2) Any structural design feature of a building, whose primary purpose is to provide for the collection, storage and distribution of solar energy for electricity generation, space heating or cooling, or water heating.

Solid Waste. Unwanted materials discarded by the occupants of homes and businesses, which may include recyclable materials.

Special Purpose District or Zone. Any of the special purpose zoning districts established by Section 22.06.020 (Zoning Districts Established), including PF (Public Facilities) and OA (Open Area); and by Section 22.62.030 (Coastal Zoning Districts Established), including the C-PF (Coastal, Public Facilities) zone as defined in Section 22.62.090 (Coastal Special Purpose and Combining Districts).

Species of Special Concern. As determined by the California Department of Fish and ~~Game~~ Wildlife, a Species of Special Concern (SSC) is a species, subspecies, or distinct population of fish, amphibian, reptile, bird, or mammal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria, as determined by the California Department of Fish and Wildlife:

- a. is extirpated from the state or, in the case of birds, in its primary seasonal or breeding role;
- b. is listed as federally-, but not state-, threatened or endangered;
- c. meets the state definitions of threatened or endangered but has not formally been listed;
- d. is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for state threatened or endangered status;
- e. has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for state threatened or endangered status.

Specific Plan. A detailed plan for the systematic implementation of the general plan, for all or part of the area covered by the general plan, as authorized by Government Code Sections 65450 et seq.

Sport Facilities and Outdoor Public Assembly (land use). This land use consists of indoor and outdoor facilities for spectator-oriented sports and other outdoor public assembly facilities for such activities as outdoor theater productions and concerts. These facilities include: amphitheaters; stadiums and coliseums; arenas and field houses; race tracks; motorcycle racing and drag strips; and other sports facilities that are considered commercial.

State. The State of California.

Stealth Design. A telecommunications facility that is designed or located in such a way that the facility is not readily recognizable as telecommunications equipment, and so that it blends into the existing built and natural environment in such a way as to avoid significant public view and community character impacts.

Stock Cooperative. A development defined by the Business and Professions Code, Section 11003.2 and the Civil Code, Section 1351.m, where a corporation is formed to hold title to improved real property and the shareholders of the corporation receive a right of exclusive occupancy in a portion of the real property.

Stone and Cut Stone Products (land use). This land use consists of the cutting, shaping, and finishing of marble, granite, slate, and other stone for building and miscellaneous uses. Also includes establishments engaged primarily in buying or selling partly finished monuments and tombstones.

Stop Work Order. A notice issued by the Building Official, or other designated official, that directs the property owner to cease work that was undertaken without proper permits.

Storage, Accessory (land use). This land use consists of the storage of various materials in support of a residential, commercial, or industrial land use on the same site, where the primary use of the site is not a storage facility.

Storage, Personal Storage Facility (land use). This land use consists of a structure or group of structures containing generally small, individual, compartmentalized stalls or lockers rented as individual storage spaces and characterized by low parking demand.

Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Story (floating home). That portion of the superstructure located between the upper surface of any deck and the upper surface of the deck or ceiling next above.

Stream (coastal). Streams in the Coastal Zone, perennial or intermittent, which are mapped by the United States Geological Survey (USGS) in the National Hydrographic Dataset.

~~{BOS app. 10/2/2012}~~

Stream Bank (coastal). The bank of a stream shall be defined as the watershed and relatively permanent elevation or acclivity at the outer line of the stream channel which separates the bed from the adjacent upland, whether valley or hill, and serves to confine the water within the bed and to preserve the course of the stream. In areas where a stream has no discernible bank, the boundary shall be measured from the line closest to the stream where riparian vegetation is permanently established. In areas where a stream has no discernible bank or riparian vegetation, the stream boundary shall be considered the stream's thalweg-ordinary high water mark.

Street, public. A public right-of-way or access normally used for vehicular traffic, excluding vehicular driveways serving a single lot or parcel and trails or paths used for pedestrian access purposes

only.

Structural Alterations. Any change in the supporting members of a building, including bearing walls, columns, beams or girders.

Structural Clay and Pottery Products (land use). This land use consists of the manufacture of brick and structural clay products, including pipe, china plumbing fixtures, and vitreous china articles, fine earthenware and porcelain products. Artist/craftsman uses are included in "Cottage Industries," "Handcraft Industries and Small Scale Manufacturing," "Home Occupations."

Structure. Anything constructed or erected, the use of which requires attachment to the ground or attachment to something located on the ground. For the purposes of this Development Code, the term "structure" includes "buildings." Examples of structures include, but are not limited to:

- residence/guest house
- garage/carport/car deck
- swimming pool/spa
- barn
- arbor/gazebo
- retaining wall
- fence/trellis

(Coastal) In the Coastal Zone, ~~the following additional improvements are considered to meet the definition of a "structure:"~~ examples of structures also include a road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Structure, Accessory. See "Accessory Structures."

Structure, Primary. A structure in which the principal use of the site is conducted. On sites with multiple structures, the Director shall determine which is the primary structure based on zoning, use, floor area, owner occupancy, etc.

Studios for Art, Dance, Music, Photography, etc. (land use). This land use consists of the provision of individual and group instruction and training in: the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; and martial arts training studios.

Subdivider. A person, firm, corporation, partnership or association, a governmental agency, public entity or public utility, or the grantor to any such agency, entity, utility or subsidiary, who proposes to subdivide real property for themselves or for others, except employees and consultants or these persons or entities acting in this capacity.

Subdivision. The division, by any subdivider, of any unit or portion of land shown on the latest equalized Marin County assessment roll as a unit or contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. Subdivision includes a condominium project, as defined in Section 1351.f of the Civil Code, and a community apartment project, as defined in Section 1351.d of the Civil Code. (In the coastal zone, See definition of land division, (coastal).)

Subdivision Map. A Tentative, Parcel or Final Map, as described in Article VI (Subdivisions).

Subdivision Map Act. Division 2, Title 7 of the California Government Code, commencing with Section 66410 as presently constituted, and any amendments to those provisions.

Substantial Evidence (coastal). Enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Argument, speculation, unsubstantiated opinion or narrative, or evidence which is clearly erroneous or inaccurate, does not constitute substantial evidence.

Superstructure (floating home). The portion of a floating home or ark above the lowest deck or the level of floatation.

Supportive Housing. Housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Health and Safety Code section 53260, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community per Health and Safety Code section 50675.14(b).

Surface Mining. All or any part of the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine.

T. Definitions, "T."

Telecommunications Facilities (land use). This land use consists of public, commercial and private electromagnetic and photoelectrical transmission, broadcast, repeater and receiving stations and equipment, including:

- cellular telephone and personal communications services (PCS) facilities, and enhanced specialized mobile radio facilities
- commercial earth stations for satellite-based communications
- data network communications facilities
- radio and television broadcast facilities, including ham radio facilities
- telephone and telegraph microwave facilities

Includes antennas, microwave dishes or horns, structures or towers to support receiving and/or transmitting devices, accessory development and structures, and the land on which they are situated. Does not include telephone, telegraph and cable television transmission facilities utilizing hard-wired or direct cable connections (see "Pipelines and Utility Lines").

Temporary Construction Yard. A site for the storage of construction materials other than the construction site.

Temporary Event (coastal): An activity or use that constitutes development of limited duration that involves the placement of non-permanent structures, and/or an activity or use that involves exclusive use of a sandy beach, parkland, filled tideland, water area, street, or parking area otherwise open and available for general public use.

Temporary Mobile Home (land use). This land use consists of a mobile home used as a temporary residence during the construction of a permanent residence on the same site.

Temporary Use Permit. A discretionary land use permit that may be granted in compliance with Chapter 22.50 (Temporary Use Permits), which authorizes a specific use of land on a specific site for a limited time, subject to compliance with any conditions of approval imposed on the permit.

Tennis and Other Recreational Uses (land use). Non-commercial facilities constructed for private use on properties developed with homes or other residences. See also "Hotel/Motel", "Outdoor Commercial Recreation", Private Recreational Facility, and "Sports Facilities and Outdoor Public Assembly".

Tentative Map. A map made for the purpose of showing the design and improvement of a proposed subdivision and the existing conditions in and around it.

Textile and Leather Products (land use). This land use consists of any of the following manufacturing activities:

- coating, waterproofing, or otherwise treating fabric
- dyeing and finishing fiber, yarn, fabric, and knit apparel
- manufacture of knit apparel and other finished products from yarn
- manufacture of felt goods, lace goods, non-woven fabrics and miscellaneous textiles
- manufacturing of woven fabric, carpets and rugs from yarn
- preparation of fiber and subsequent manufacturing of yarn, threads, braids, and twine cordage
- upholstery manufacturing

Thalweg (coastal). A line connecting the lowest or deepest points along a stream bed or valley bottom.

Theaters and Meeting Halls (land use). This land use consists of indoor facilities for public assembly and group entertainment, other than sporting events, including:

- civic theaters, meeting halls and facilities for "live" theater and concerts
- exhibition and convention halls
- meeting halls for rent
- motion picture theaters
- public and semi-public auditoriums
- similar public assembly uses

Does not include outdoor theaters, concert and similar entertainment facilities, and indoor and outdoor facilities for sporting events; see "Sport Facilities and Outdoor Public Assembly."

Threatened Species. A Threatened Species is an animal or plant species likely to become endangered within the foreseeable future throughout all or a significant portion of its range, as determined by the U.S. Fish and Wildlife Service or National Oceanic and Atmospheric Administration consistent with the Federal Endangered Species Act of 1973, or as designated by the California Department of Fish and Wildlife consistent with the California Endangered Species Act.

~~[BOS app. 10/2/2012, 11/13/2012]~~

Tidelands. ~~All land and water areas that are below, or were at any time within a preceding 12-month period below the Mean High Tide line, and to contiguous land between that line, and either a point 100 feet inland or the nearest publicly maintained road, whichever is closer. Lands which are located between the lines of mean high tide and mean low tide.~~

Tidelands Permit. A discretionary permit that may be granted in compliance with Chapter 22.52 (Tidelands Permits) of this Development Code, which may authorize fill, excavation, or structures within the tidelands of the County, subject to compliance with any conditions of approval imposed on the permit.

Timber Harvesting. The cutting of timber and/or removal of forest products for commercial purposes, together with all the work incidental to those operations, including road building, tree marking, hazard reduction, etc.

Tobacco Paraphernalia. Cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette-rolling machines, and any other item designed for the smoking, use or ingestion of tobacco products.

Tobacco Products. Any substance containing any tobacco leaf, including cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, and smokeless tobacco.

Tobacco Retailer. Any person who sells, offers for sale, or offers to exchange for any form of consideration, tobacco, tobacco products, and/or tobacco paraphernalia.

Transfer of Development Rights (TDR). The process established by Chapter 22.34 (Transfer of Development Rights), which allows some or all of the number of dwelling units potentially allowed by the zoning applicable to a "donor" site, to be transferred and built on another "receiving" site, in addition to the number of units potentially allowed by the zoning of the receiving site.

Transit Stations and Terminals (land use). This land use consists of passenger stations for vehicular, ferry, and rail mass transit systems; also terminal facilities providing maintenance and service for the vehicles operated in the transit system. Includes buses, taxis, railway, etc.

Transit Stop Shelter (land use). This land use consists of a small-scale covered waiting area for busses, taxis, and rail/mass transit stops.

Transitional Housing. Buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months per Health and Safety Code section 50675.2(h).

Two-Family Dwelling (land use). This land use consists of detached residential structures under single ownership containing two dwellings. This land use does not include residential second units, which are separately defined.

U. Definitions, "U."

Unincorporated Community. A concentration of structures and population within the unincorporated areas of the County identified by the Countywide Plan as a community.

Use. The purpose for which land or a building thereon is designed, or for which it may be occupied. Each business, administrative, professional, industrial, or other establishment, which is separate from another establishment, both in fact and in the appearance presented to the public, shall be considered a separate use.

Use Permit. A discretionary land use permit that may be granted by the review authority in compliance with Chapter 22.48 (Use Permits), which authorizes a specific use of land on a specific site, subject to compliance with any conditions of approval imposed on the permit.

V. Definitions, "V."

Vacant Lot (non-coastal). A lot which is not developed with a primary structure, or is developed only with one or more accessory structures. As used in this Code, development of a lot which entails demolition exceeding 75 percent of the linear sum of the primary structure's exterior walls for each story shall be subject to the regulations for developing a vacant lot.

Variance. See Chapter 22.54 (Variances).

Vehicle and Freight Terminals (land use). This land use consists of the provision of services incidental to air, motor freight, and rail transportation. Examples of these services and related facilities include:

- freight forwarding services
- freight terminal facilities
- joint terminal and service facilities
- packing, crating, inspection and weighing services
- postal service bulk mailing distribution centers
- transportation arrangement services
- trucking facilities, including transfer and storage

Vermiculture (coastal). The raising and production of earthworms and their by-products.

Vessel. Any watercraft of any type or size, including barges, ferry boats, yachts, houseboats, floating homes, and rafts.

Vest. To obtain a right by completing an action required by ~~this Development Code~~ law.

Vesting Tentative Map. A map that is filed and processed in the same manner as a Tentative Map except as otherwise provided by Section 22.84.110 (Tentative Map Time Limits), or the Subdivision Map Act. A Vesting Tentative Map shall have the words "Vesting Tentative Map" printed conspicuously on its face at the time it is filed with the Agency.

Veterinary Clinics and Animal Hospitals (land use). This land use consists of office and entirely indoor medical treatment facilities used by veterinarians, including large and small animal veterinary clinics, and animal hospitals. See also, "Kennels and Animal Boarding."

Visitor-Serving Facility. Facilities that cater to visitors, including ~~S~~stores, shops, businesses, bed and breakfast inns, public and private recreational facilities that provide accommodations, food and service facilities. Includes hotels and motels, campgrounds, parks, nature preserves, restaurants, and commercial recreational development such as shopping, eating and amusement areas which are geared toward and used by the traveling public.

Visually Prominent Ridgeline. A line connecting the topographic highpoints within the Countywide Plan's Ridge and Upland Greenbelt along a ridge that separates watersheds and is visible from public viewpoints from open space areas, parks, trailheads, highways, arterial roads, the bay and other water bodies.

Visually Prominent Ridgeline (coastal). A line connecting the topographic highpoints along a ridge that separates watersheds and is visible from public viewpoints (e.g., from open space areas, parks, trailheads, highways, arterial roads, the bay and other water bodies).

Viticulture (coastal). The cultivation of grapes.

V-Zone (coastal). See “Flood Hazard Zone.”

W. Definitions, "W."

Warehouse Retail Stores (land use). This land use consists of the retail stores that emphasize the packaging and sale of products in large quantities or volumes, some at discounted prices, where products are typically displayed in their original shipping containers. Sites and buildings are usually large and industrial in character. Patrons may or may not be required to pay membership fees.

Warehousing (land use). This land use consists of facilities for the storage of farm products, furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include: warehouse, storage or mini-storage facilities offered for rent or lease to the general public (see "Storage, Personal Storage Facilities"); warehouse facilities in which the primary purpose of storage is for wholesaling and distribution (see "Wholesaling and Distribution"); or terminal facilities for handling freight (see "Vehicle and Freight Terminals").

Waste Disposal Sites (land use). This land use consists of County-approved or operated refuse dumps, sanitary landfills and other solid waste terminal disposal facilities, not including facilities for hazardous materials.

Water Conservation Dams and Ponds (land use). This land use consists of water impoundment reservoirs constructed for watering stock, groundwater recharge, and other conservation purposes.

Watershed (coastal). The geographical area drained by a river and its connecting tributaries into a common source. A watershed may, and often does, cover a very large geographical region.

WECS (land use). See "Wind Energy Conversion Systems (WECS)."

Wet Bar. An area that includes a bar sink not exceeding a maximum dimension of 12-inches by 12-inches and adjoining cabinets and counters not exceeding an aggregate length of six feet. Electrical service in a wet bar area shall be limited to general purpose receptacles. The maximum size of the trap arm and drain for the bar sink shall not exceed 1.5 inches. Dedicated electrical circuits, gas lines, gas stubouts, and additional plumbing stubouts are prohibited as part of the wet bar area. Wet bars are not considered food preparation facilities.

Wetland (coastal). Lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. "Wetland" shall be defined as:

- A. Land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:
 1. The boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;
 2. The boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or
 3. In the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.
- B. The term "wetland" shall not include wetland habitat created by the presence of and associated with agricultural ponds and reservoirs ~~or by drainage ditches~~ where:
 1. The pond or reservoir was in fact constructed by a farmer or rancher for agricultural purposes; and
 2. There is no evidence (e.g., aerial photographs, historical survey, etc.) showing that wetland habitat pre-dated the existence of the pond or reservoir. Areas with drained

hydric soils that are no longer capable of supporting hydrophytes shall not be considered wetlands; or
~~3. The drainage ditch is a narrow (usually less than 5 feet wide), constructed nontidal ditch excavated from dry land, which is not a replacement for a natural drainage feature.~~

Wholesaling and Distribution (land use). This land use consists of establishments engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Includes such establishments as:

- agents, merchandise or commodity brokers, and commission merchants
- assemblers, buyers and associations engaged in the cooperative marketing of farm products
- merchant wholesalers
- stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment

Wild Animal Ranches (land use). This land use consists of the keeping or raising of wild animals for commercial agricultural purposes.

Williamson Act. Formally the California Land Conservation Act of 1965, this Act was designed as an incentive to retain prime agricultural land and open space in agricultural use, thereby slowing its conversion to urban and suburban development. The program entails a 10-year contract between the County and an owner of land whereby the land is taxed on the basis of its agricultural use rather than the market value. The land becomes subject to certain enforceable restrictions, and certain conditions need to be met prior to approval of an agreement.

Wind Energy Conversion System (WECS) (land use). This land use consists of a wind turbine, windmill, or similar machine, which converts the kinetic energy in the wind into a usable form. The WECS consists of all parts of the system, including the wind turbine tower and the transmission equipment.

Wind Testing Facility (coastal). Wind testing facilities are those facilities or structures that have been temporarily installed to measure wind speed and directions and collect other data relevant to siting WECS.

X. Definitions, "X." No definitions beginning with the letter "X" are used at this time.

Y. Definitions, "Y."

Yard. An area between a lot line and a setback, unobstructed and unoccupied from the ground upward, except for projections permitted by this Development Code. See Section 22.20.100 (Setback Requirements and Exceptions) and Figure 8-7 (Setbacks).

1. **Front Yard.** An area extending across the full width of the lot between the front lot line and the nearest line of the building.
2. **Rear Yard.** An area extending the full width of the lot between a rear lot line and the nearest line of the building.
3. **Side Yard.** An area extending from the front yard to the rear yard between the nearest side lot line and the nearest line of the building.
4. **Interior Yard.** An area between a lot line and the nearest line of the building that does not abut a street or right-of-way.

Z. Definitions, "Z."

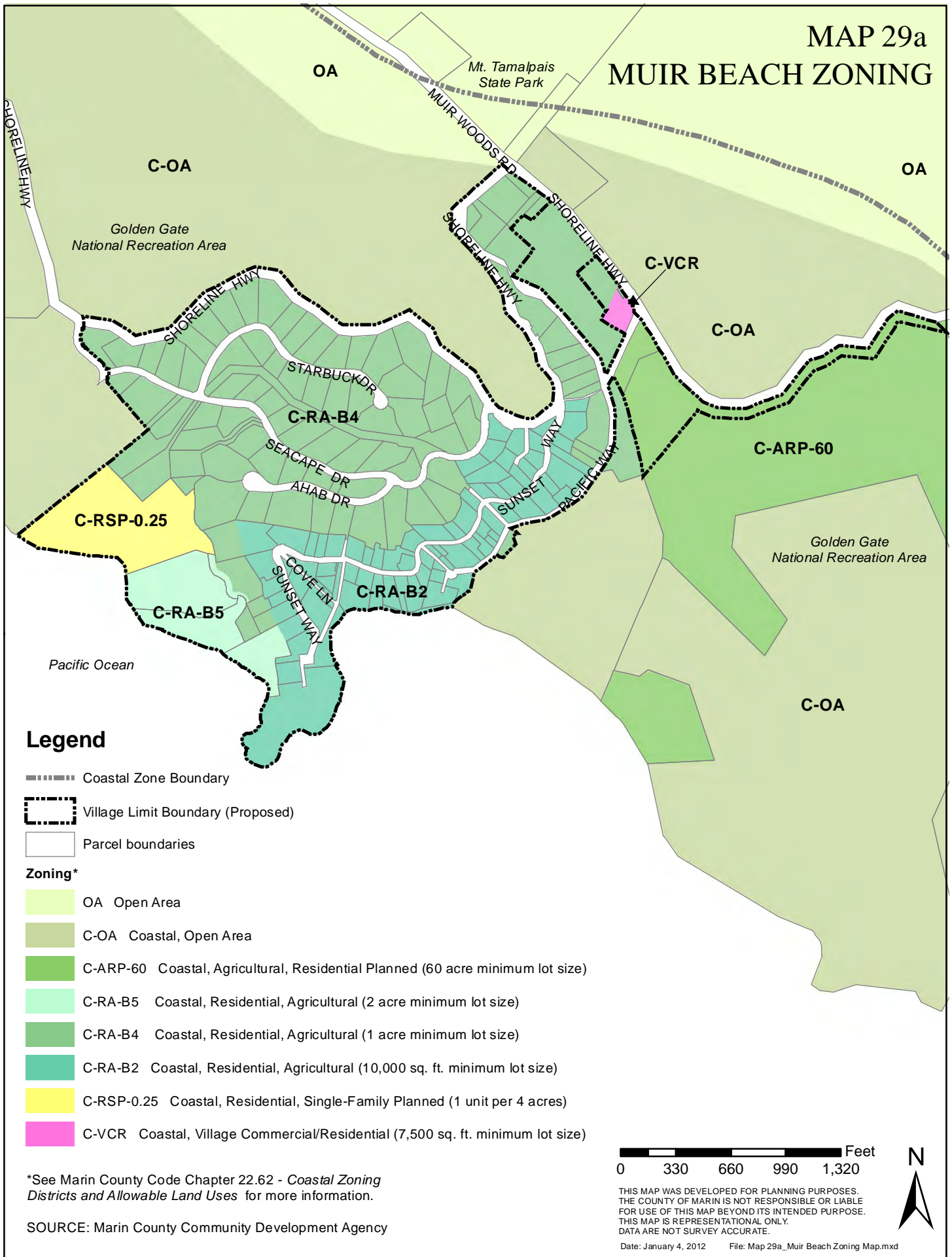
Zoning Administrator. The employee of the Marin County Community Development Agency appointed by the Board of Supervisors as Zoning Administrator, with duties and authority as described in Section 22.110.040 (Zoning Administrator).

Zoning Code. Articles I through V, and VII through VIII of this Development Code.

Zoning District. An area identified on the County Zoning Map within which certain uses of land and structures are permitted, and regulations are specified by this Development Code. The zoning districts established by this Development Code are described in Sections 22.06.020 (Zoning Districts Established), and Article V (Coastal Zones – Permit Requirements and Development Standards).

Zoning Map. The official map or maps of Marin County that identify the specific zoning districts located in the unincorporated areas of the County. The Zoning Map is on file with the Marin County Community Development Agency.

MAP 29a MUIR BEACH ZONING



MAP 29b STINSON BEACH ZONING

Legend

- Coastal Zone Boundary
- Village Limit Boundary (Proposed)
- Parcel boundaries
- Bolinas - see Map "28c" for zoning

Zoning

- OA Open Area
- C-OA Coastal Open Area
- C-ARP-1.7 Coastal Agricultural, Residential Planned (1 unit per 1.7 acres)
- C-RA-B6 Coastal Residential, Agricultural (3 acre minimum lot size)
- C-RA-B5 Coastal Residential, Agricultural (2 acre minimum lot size)
- C-RA-B4 Coastal Residential, Agricultural (1 acre minimum lot size)
- C-RA-B3 Coastal Residential, Agricultural (20,000 sq. ft. minimum lot size)
- C-R1-B3 Coastal Single-Family Residential (20,000 sq. ft. minimum lot size)
- C-R1-B2 Coastal Single-Family Residential (10,000 sq. ft. minimum lot size)
- C-R1 Coastal Single-Family Residential (7,500 sq. ft. minimum lot size)
- R1 Single-Family Residential (7,500 sq. ft. minimum lot size)
- C-R2 Coastal Residential, Two-Family (7,500 sq. ft. minimum lot size)
- C-RSP-0.346 Coastal Residential, Single-Family Planned, Seadrift Subdivision (1 unit per 2.89 acres)
- C-RSP-0.387 Coastal Residential, Single-Family Planned, Seadrift Subdivision (1 unit per 2.58 acres)
- C-RSP-1.4 Coastal Residential, Single-Family Planned, Seadrift Subdivision (1.4 units per acre)
- C-RSP-2.9 Coastal Residential, Single-Family Planned, Seadrift Subdivision (2.9 units per acre)
- C-RSP-3.5 Coastal Residential, Single-Family Planned, Seadrift Subdivision (3.5 units per acre)
- C-RSP-4.39 Coastal Residential, Single-Family Planned, Seadrift Subdivision (4.39 units per acre)
- C-RSP-4.5 Coastal Residential, Single-Family Planned, Seadrift Subdivision (4.5 units per acre)
- C-RSP-2 Coastal Residential, Single-Family Planned (2 units per acre)
- C-H1 Coastal Limited Roadside Business (7,500 sq. ft. minimum lot size)
- C-VCR Coastal Village Commercial/Residential (7,500 sq. ft. minimum lot size)

*See Marin County Code Chapter 22.62 - *Coastal Zoning Districts and Allowable Land Uses* for more information.

SOURCE: Marin County Community Development Agency

0 640 1,280 1,920 2,560 Feet

THIS MAP WAS DEVELOPED FOR PLANNING PURPOSES. THE COUNTY OF MARIN IS NOT RESPONSIBLE OR LIABLE FOR USE OF THIS MAP BEYOND ITS INTENDED PURPOSE. THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY ACCURATE.

Date: January 4, 2012 File: Map 29b Stinson Beach Zoning Map.mxd

Exhibit 1 (Proposed IP With Commission Suggested Modifications in Cross-through and Underline)

LCP-2-MAR-13-0224-1 Part B (Marin IP Update)

Page 263 of 273

MAP 29c BOLINAS ZONING

Legend

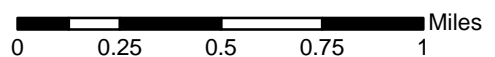
- Coastal Zone Boundary
- Village Limit Boundary (Proposed)
- Parcel boundaries
- Stinson Beach - see Map "28b" for zoning

Zoning*

- OA Open Area
- C-OA Coastal, Open Area
- C-APZ-60 Coastal, Agricultural Production Zone (60 acre minimum lot size)
- C-ARP-60 Coastal, Agricultural, Residential Planned (1 unit per 60 acres)
- C-ARP-20 Coastal, Agricultural, Residential Planned (1 unit per 20 acres)
- C-ARP-10 Coastal, Agricultural, Residential Planned (1 unit per 10 acres)
- C-ARP-5 Coastal, Agricultural, Residential Planned (1 unit per 5 acres)
- C-RA-B4 Coastal, Residential, Agricultural (1 acre minimum lot size)
- C-RA-B2 Coastal, Residential, Agricultural (10,000 sq. ft. minimum lot size)
- C-VCR Coastal, Village Commercial/Residential (7,500 sq. ft. minimum lot size)

*See Marin County Code Chapter 22.62 - *Coastal Zoning Districts and Allowable Land Uses* for more information.

SOURCE: Marin County Community Development Agency



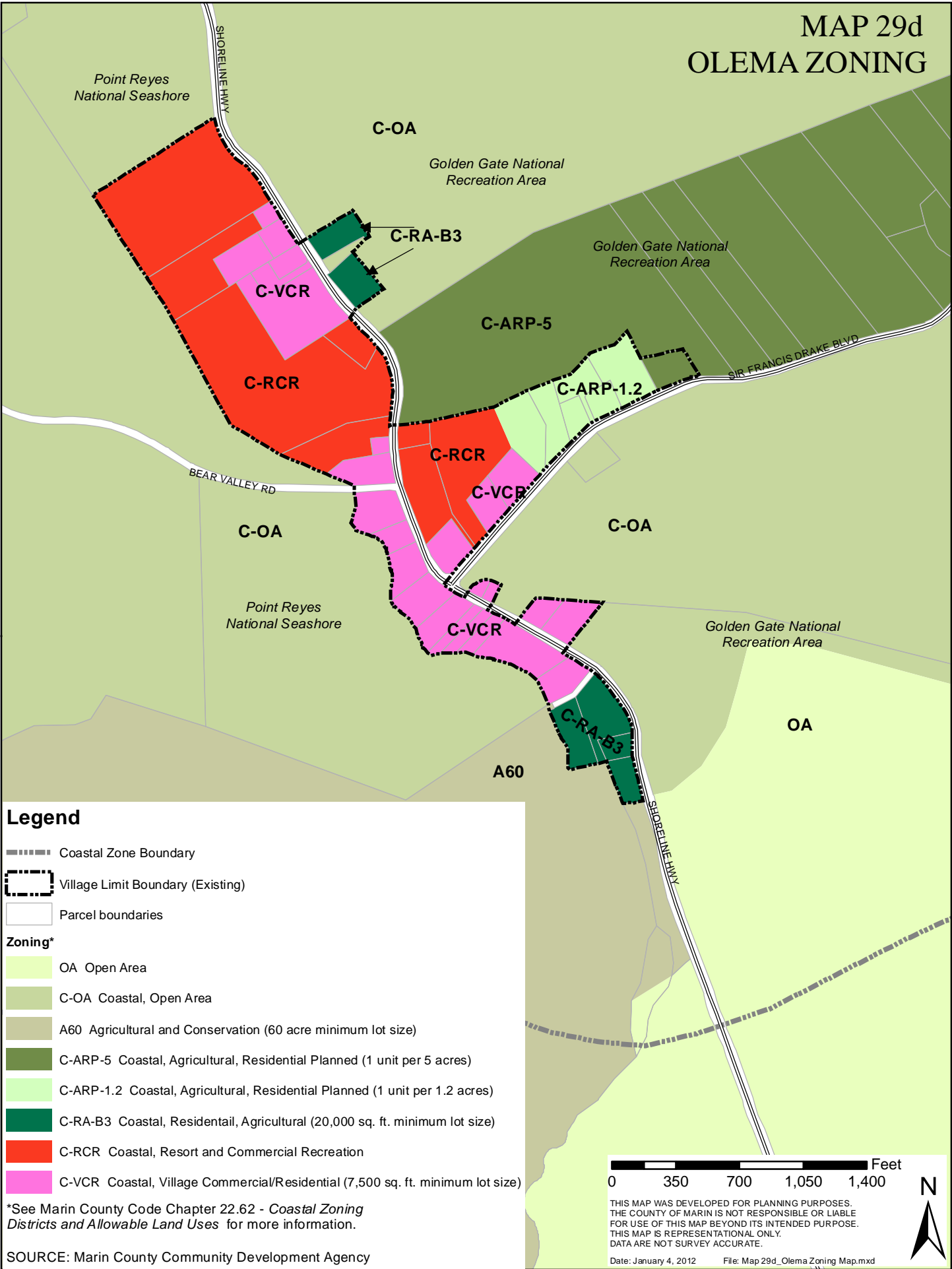
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Date: January 4, 2012

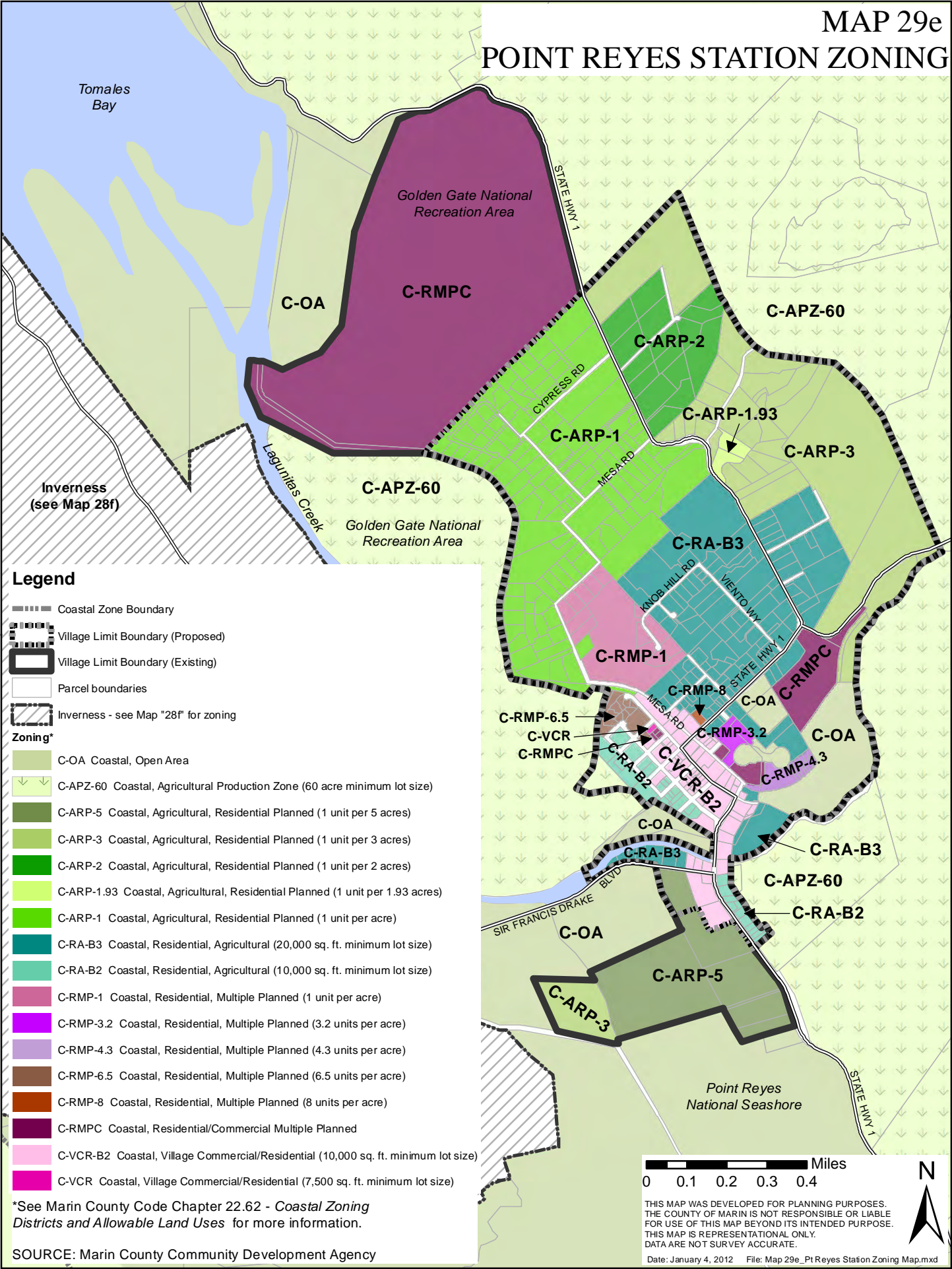
File: Map 29c_Bolinas Zoning Map.mxd



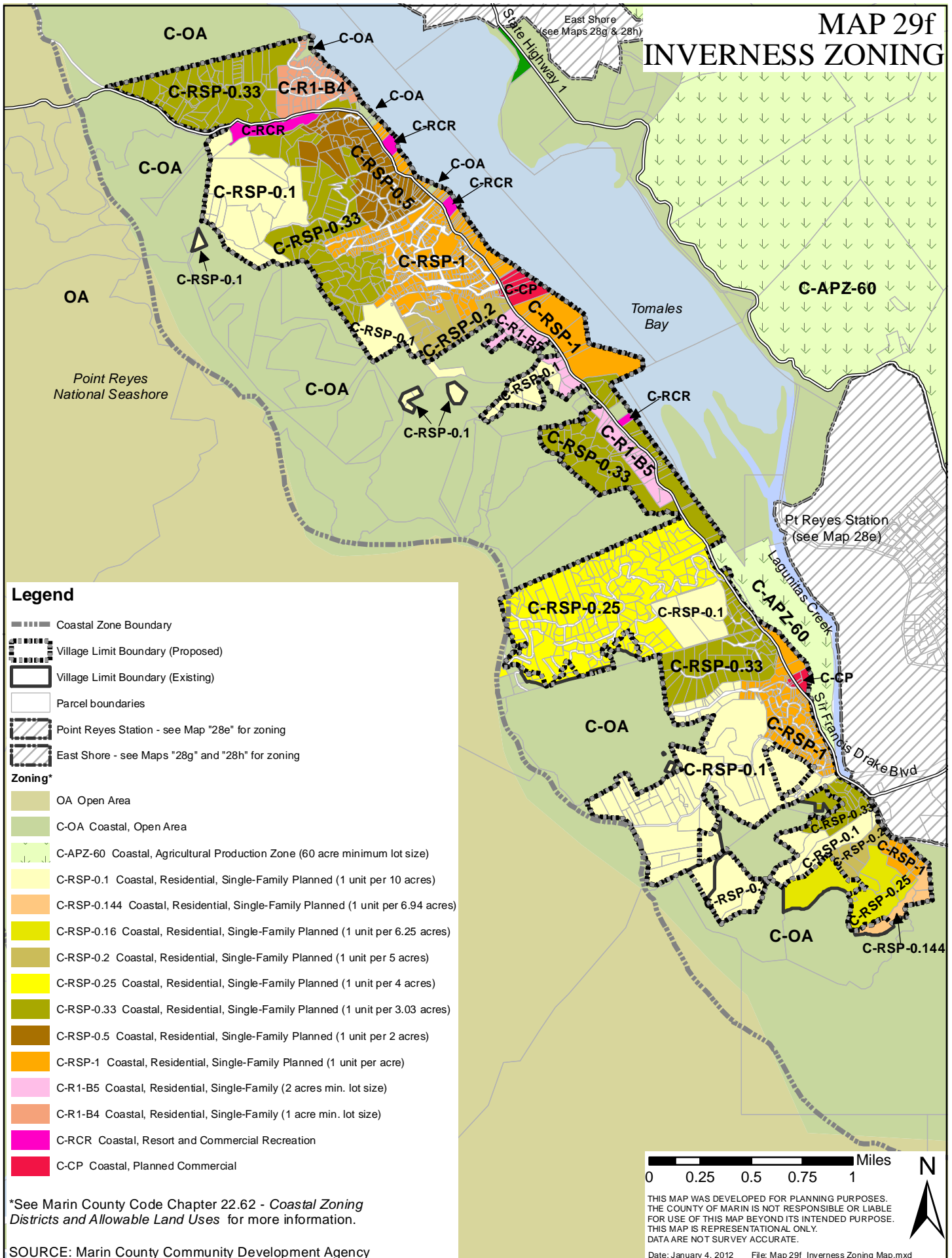
MAP 29d OLEMA ZONING



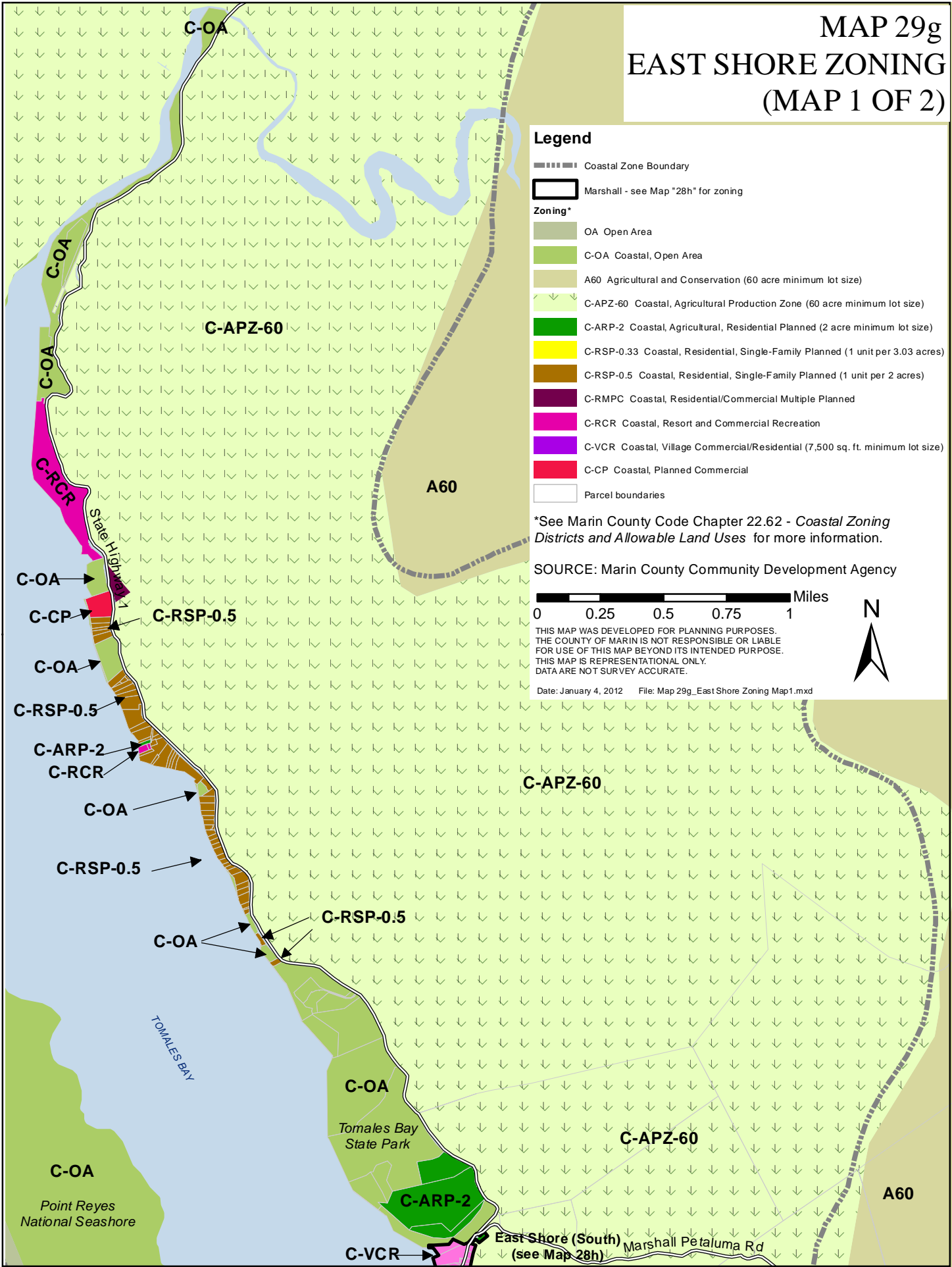
MAP 29e POINT REYES STATION ZONING



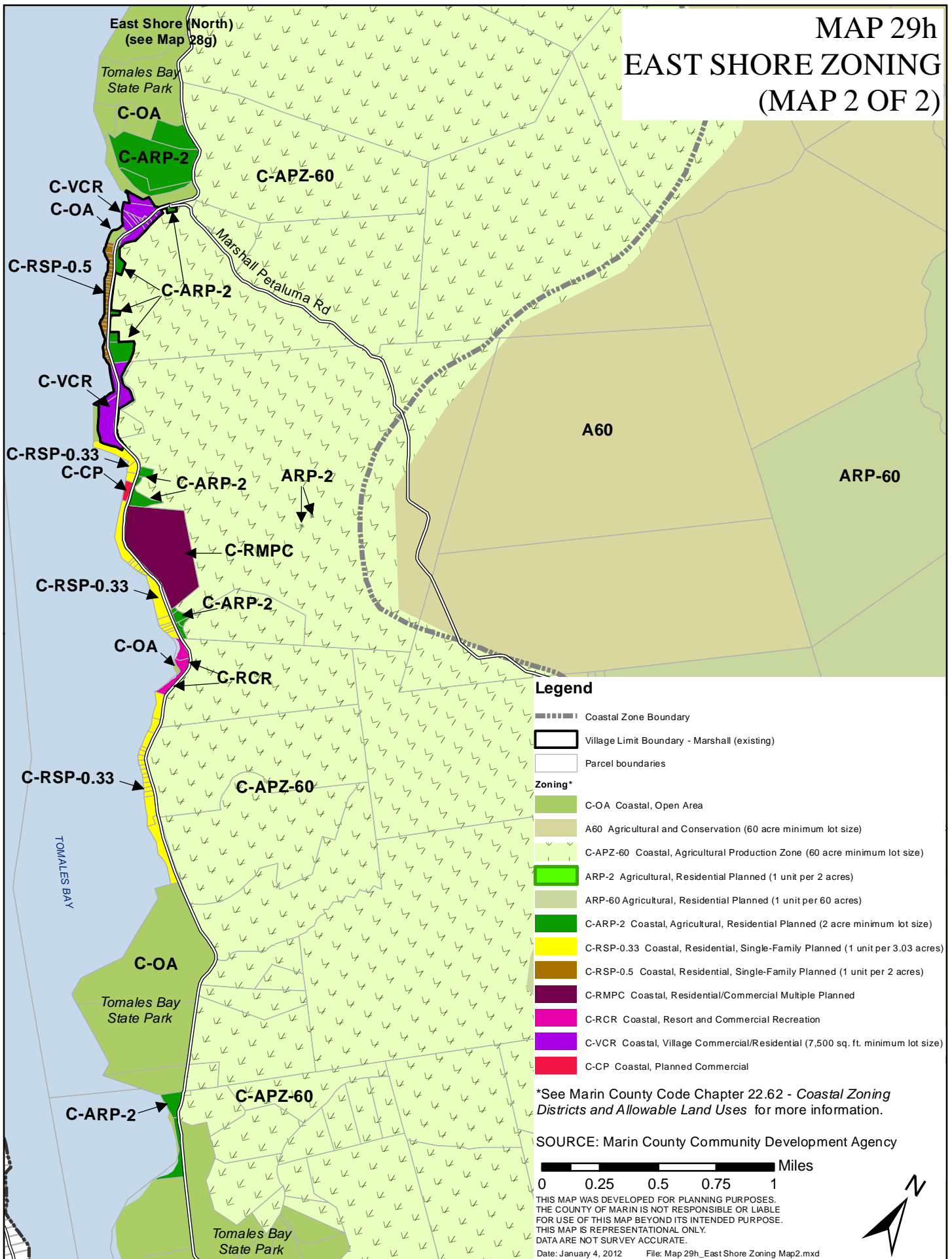
MAP 29f INVERNESS ZONING



MAP 29g EAST SHORE ZONING (MAP 1 OF 2)





MAP 29h EAST SHORE ZONING (MAP 2 OF 2)















MAP 29i DILLON BEACH ZONING

Legend

-  Village Limit Boundary (existing)
-  Parcel boundaries

Zoning*

-  C-APZ-60 Coastal, Agricultural Production Zone (60 acre minimum lot size)
-  C-RA-B5 Coastal, Residential, Agricultural (2 acre minimum lot size)
-  C-R1-B2 Coastal, Residential, Single-Family (10,000 sq. ft. minimum lot size)
-  C-R1 Coastal, Residential, Single-Family (7,500 sq. ft. minimum lot size)
-  C-R1-BD Coastal, Residential, Single-Family (7,500 sq. ft. minimum lot size)
-  C-RSP-0.4 Coastal, Residential, Single-Family Planned (1 unit per 2.5 acres)
-  C-RMP-0.85 Coastal, Residential, Multiple Planned (1 unit per 1.18 acres)
-  C-RMP-1.23 Coastal, Residential, Multiple Planned (1.23 units per acre)
-  C-RMP-2.2 Coastal, Residential, Multiple Planned (2.2 units per acre)
-  C-RMPC-0.7 Coastal, Residential/Commercial Multiple Planned (1 unit per 1.43 acres)
-  C-RMPC-1.2 Coastal, Residential/Commercial Multiple Planned (1.2 units per acre)
-  C-RCR Coastal Resort and Commercial Recreation

*See Marin County Code Chapter 22.62 - *Coastal Zoning Districts and Allowable Land Uses* for more information.

SOURCE: Marin County Community Development Agency

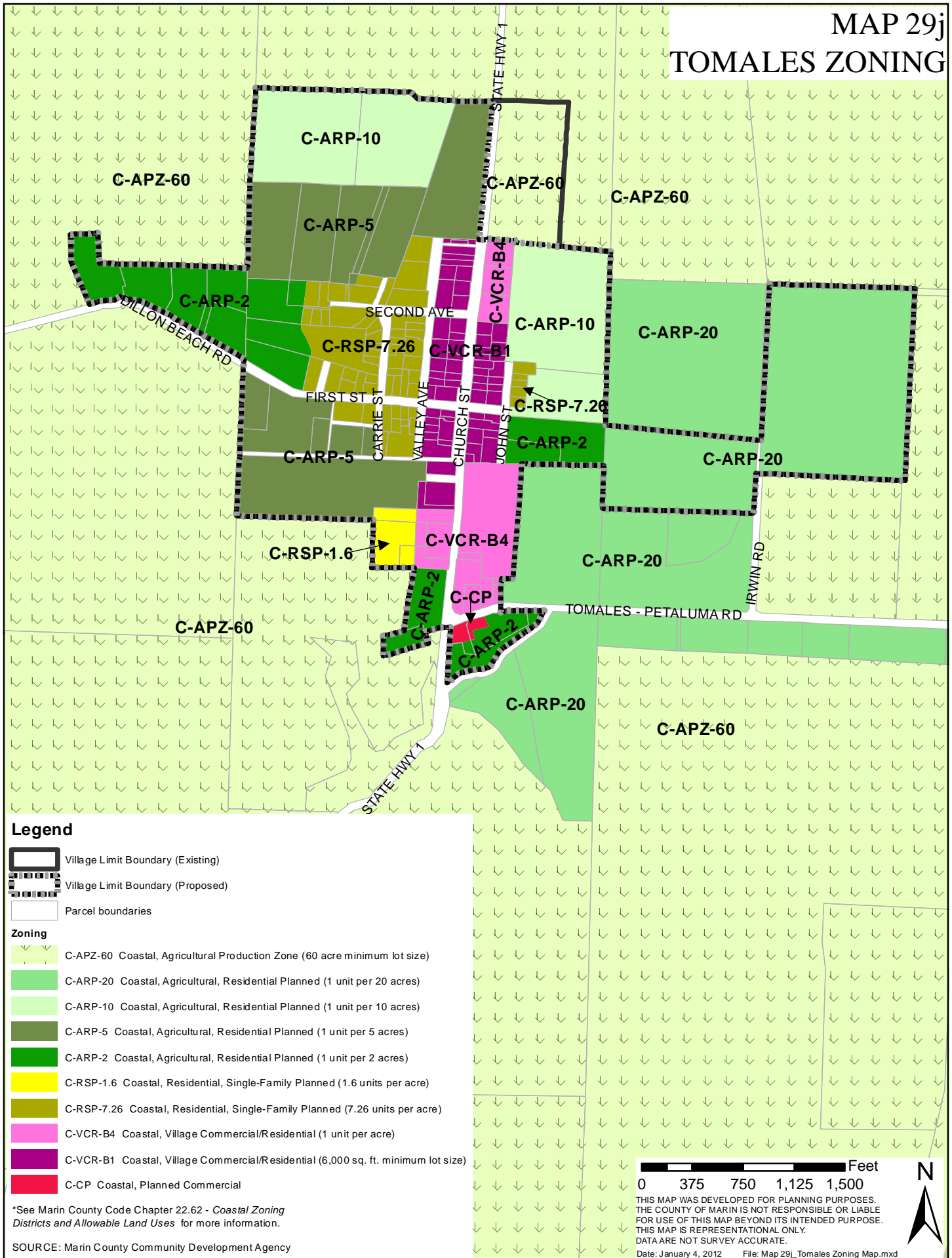
0 375 750 1,125 1,500 Feet

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DATA ARE NOT SURVEY ACCURATE.

Date: January 4, 2012 File: Map 29i_Dillon Beach Zoning Map.mxd



MAP 29j TOMALES ZONING



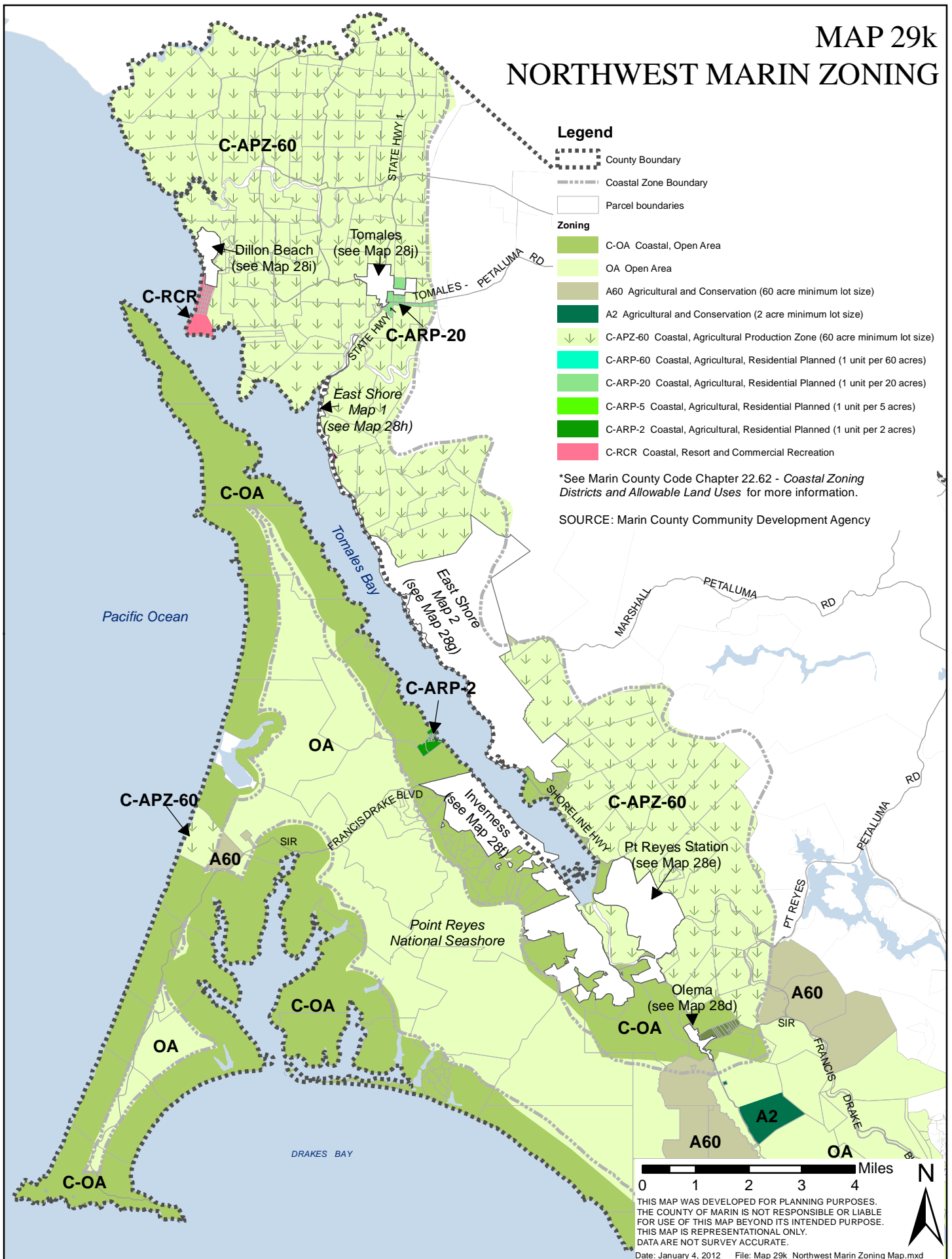
MAP 29k NORTHWEST MARIN ZONING

Legend

- County Boundary
- Coastal Zone Boundary
- Parcel boundaries
- Zoning**
 - C-OA Coastal, Open Area
 - OA Open Area
 - A60 Agricultural and Conservation (60 acre minimum lot size)
 - A2 Agricultural and Conservation (2 acre minimum lot size)
 - C-APZ-60 Coastal, Agricultural Production Zone (60 acre minimum lot size)
 - C-ARP-60 Coastal, Agricultural, Residential Planned (1 unit per 60 acres)
 - C-ARP-20 Coastal, Agricultural, Residential Planned (1 unit per 20 acres)
 - C-ARP-5 Coastal, Agricultural, Residential Planned (1 unit per 5 acres)
 - C-ARP-2 Coastal, Agricultural, Residential Planned (1 unit per 2 acres)
 - C-RCR Coastal, Resort and Commercial Recreation

*See Marin County Code Chapter 22.62 - Coastal Zoning Districts and Allowable Land Uses for more information.

SOURCE: Marin County Community Development Agency



MAP 291 SOUTHWEST MARIN ZONING

Legend



County Boundary



Coastal Zone Boundary



City Boundaries



Parcel boundaries

Zoning



C-OA Coastal, Open Area



OA Open Area



A60 Agricultural and Conservation (60 acre minimum lot size)



A2 Agricultural and Conservation (2 acre minimum lot size)



C-APZ-60 Coastal, Agricultural Production Zone (60 acre minimum lot size)



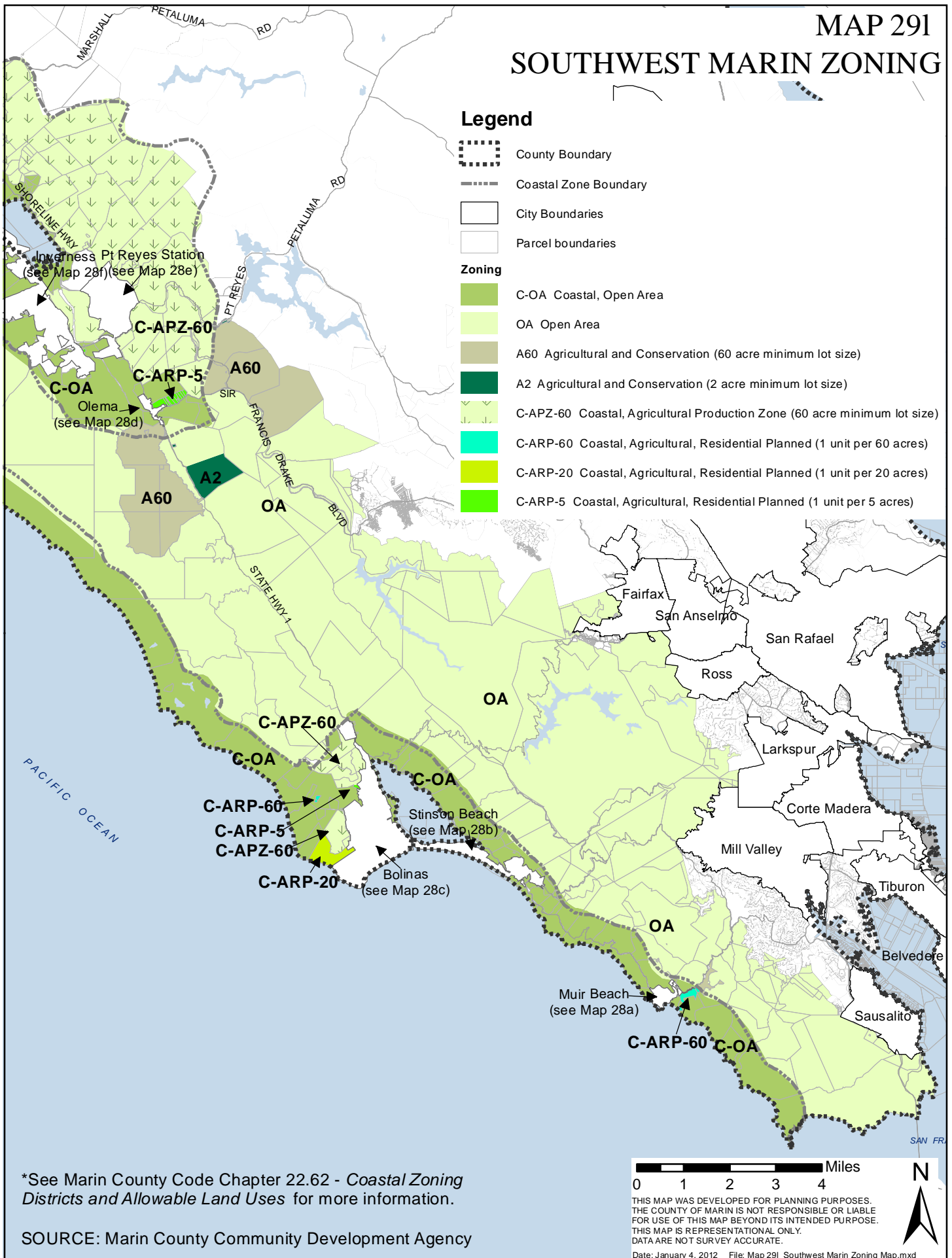
C-ARP-60 Coastal, Agricultural, Residential Planned (1 unit per 60 acres)



C-ARP-20 Coastal, Agricultural, Residential Planned (1 unit per 20 acres)



C-ARP-5 Coastal, Agricultural, Residential Planned (1 unit per 5 acres)



*See Marin County Code Chapter 22.62 - *Coastal Zoning Districts and Allowable Land Uses* for more information.

SOURCE: Marin County Community Development Agency

0 1 2 3 4 Miles

THIS MAP WAS DEVELOPED FOR PLANNING PURPOSES. THE COUNTY OF MARIN IS NOT RESPONSIBLE OR LIABLE FOR USE OF THIS MAP BEYOND ITS INTENDED PURPOSE. THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY ACCURATE.

Date: January 4, 2012 File: Map 291 Southwest Marin Zoning Map.mxd

Chapter 22.56I

C DISTRICTS

Sections:

- 22.56.010I Purpose.**
- 22.56.020I Applications.**
- 22.56.023I Consistency with California Coastal Act of 1976.**
- 22.56.025I Application of specific regulations.**
- 22.56.026I Coastal master plan districts.**
- 22.56.027I Plan area for C-planned districts.**
- 22.56.030I Definitions.**
- 22.56.040I Projects allowed by permit.**
- 22.56.050I Projects exempt from coast project permit requirements.**
- 22.56.055I Projects requiring a coastal project permit.**
- 22.56.060I Application for coastal permit.**
- 22.56.062I Determination of permit category.**
- 22.56.065I Notice required.**
- 22.56.070I Action on coastal project permit.**

22.56.075I County appeals of coastal project permit action.
 22.56.080I Appeals to the California Coastal Commission.
 22.56.090I Projects requiring a coastal development permit from the California Coastal Commission.
 22.56.095I Findings.
 22.56.100I Notice of final action.
 22.56.105I Failure to act--Notice.
 22.56.110I Effective date of final action on coastal project.
 22.56.115I Amendments to coastal project permits.
 22.56.120I Expiration date and time extensions.
 22.56.130I Development requirements, standards and conditions.
 22.56.140I Violations and enforcement.

22.56.010I Purpose.

The purpose of this chapter is to provide the mechanisms to implement coastal policies for Marin County. This chapter implements policies which identify the location and density of development, provide for access to and along the coast, protect significant natural resources, protect archeological and historical resources and provide standards for public and private actions.
 (Ord. 2637 § 6 (part), 1981)

22.56.020I Applications.

The C district shall conform to the coastal zone as established by the Coastal Act of 1976. The following general regulations shall apply in all C zoning districts as noted below and should be subject to the provisions of Chapters 22.62 through 22.74I of this title. The provisions of Section 22.88.010I (3), (5), (6), (7a) through (7e) and (8) shall not apply in C districts.

C District

C-ARP	Coastal, agricultural residential planned district.
C-APZ	Coastal, agricultural production zone district
C-R-A	Coastal, residential agricultural district
C-R-1	Coastal, one-family residence district
C-R-2	Coastal, two-family residence district
C-RMP	Coastal, residential multiple planned district
C-RSP	Coastal, residential one-family planned district
C-RSPS	Coastal, residential one-family planned district Seadrift Subdivision
C-CP	Coastal, planned commercial district
C-H-1	Coastal, limited roadside business district
C-VCR	Coastal, village commercial residential district
C-OA	Coastal, open area district

C-RMPC	Coastal, residential multiple planned commercial district
C-RCR	Coastal, resort commercial recreation district

(Ord. 2703 § 1, 1982: Ord. 2637 § 6 (part), 1981)

22.56.023I Consistency with California Coastal Act of 1976.

Development of all projects in the coastal zone of Marin County shall be generally consistent with the Coastal Act of 1976 and specifically with the Public Access and Recreational Policies (Chapter 6, Sections 30200, 30210, 30211, 30212, 30212.5, 30213, 30220, 30221, 30222, and 30223). In addition, the process of review and approval of any project shall be consistent with the appeals section of the Coastal Act (Chapter 6, Section 30603, paragraph A and B).

(Ord. 2637 § 6(part), 1981)

22.56.025I Application of specific regulations.

Specific regulations in addition to the general regulations applicable to all C districts are contained in the provisions for each type of district (Chapter 22.57I).

(Ord. 2637 § 6 (part), 1981)

22.56.026I Coastal master plan districts.

The following C districts shall be subject to the requirements of Chapter 22.45 in addition to the requirements of this chapter: C-ARP, C-RSP, C-RMP, C-CP, C-APZ, C-RSPS, C-RMPC, C-RCR.

All coastal project permits in coastal master plan districts, including approval of a master plan, are appealable under Section 30603 (a) of the Coastal Act. The conceptual land uses approved in any master plan shall not be considered subject to appeal to the California Coastal Commission upon issuance of any subsequent coastal project permit within the master plan district.

The requirements of Chapter 22.45 may be waived by the planning director when:

- A. One single-family dwelling unit is proposed for construction on a legal building site;
- B. A tentative map requiring a parcel map for four parcels or less is proposed, except in C-APZ districts;
- C. The planning director determines that a proposed development is minor or incidental in nature and within the intent and objectives of the local coastal plan.

In granting a waiver from the requirements of Chapter 22.45, the planning

director may designate such conditions therewith as will, in the opinion of the planning director, secure substantially the objectives of the regulation or provision for which such waiver is granted.

If master plan requirements are waived, a proposal shall be submitted which meets the requirements of Chapter 22.82I (Design review).
(Ord. 2703 § 2, 1982)

22.56.027I Plan area for C-planned districts.

The area of the master plan and development plan shall include at least all contiguous properties under the same ownership. The area may also include multiple ownerships.
(Ord. 2637 § 6 (part), 1981)

22.56.030I Definitions.

For the purposes of this chapter, the following terms are defined as follows:

- A. "Stream bank" is the immediate watershed and relatively permanent elevation at the waterline of the stream channel which separates the bed from the adjacent upland and confines and preserves the course of the stream. In areas where the bank is not readily discernible, the bank boundary shall be determined by the first line of permanently established riparian vegetation closest to the stream.
- B. "Discretionary action" means approval or denial by a county officer, board, or commission, of a project based on findings of fact.
- C. "Project" means, on land, in or under water:
 - 1. The placement or creation of any solid material or structure, including but not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line;
 - 2. Discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste, and the mining or extraction of any material;
 - 3. Grading, removing, dredging, mining, or extraction of any materials;
 - 4. Change in the density or intensity of use of land, including but not limited to subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code) and any other division of land, including lot splits, except where the

land division is for the purchase of such land by a public agency for public recreational use;

5. Change in the intensity or use of water, or of access thereto;
6. Construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public or municipal utility; and
7. The removal or harvesting of major trees, rare or endangered species and permanently established riparian vegetation other than for agricultural purposes.

D. "Structure" means any building, road, pipe, flume, conduit, siphon, well, telephone line, and electrical power transmission and distribution lines.

E. "Coastal dependent use" means any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

F. "Visitor-serving facility" means stores, shops, businesses, bed and breakfast houses, recreational facilities (both public and private), which provide accommodations, food and services: including hotels, motels, campgrounds, parks, nature preserves, restaurants, and commercial recreational development such as shopping, eating and amusement areas which are used by the traveling public.

G. "Historic area" means those areas mapped and described in the local coastal plan. These areas are located within Tomales, Marshall, Point Reyes Station, Olema, Inverness, Bolinas and Stinson Beach.

H. "Historic structure" means any building constructed prior to 1930. "Historic structure" also includes secondary buildings on a lot.

(Ord. 2739 § 1, 1982; Ord. 2637 § 6 (part), 1981)

22.56.040I Projects allowed by permit.

All projects including those of state and local public agencies not exempted by Section 22.56.050I or not otherwise requiring a coastal project permit shall require a coastal project permit. Notwithstanding other requirements of this title, the following projects shall be permitted by approval of a coastal project permit:

- A. Uses and structures permitted in the respective coastal districts, including but not limited to:
 1. Variances,
 2. Use permits,

3. Master plans and development plans,
 4. Design review,
 5. Sign permits;
- B. Tidelands permits processed under Chapter 22.77I;
- C. Permits for projects processed under other chapters and titles of the Marin County Code, including but not limited to:
1. Grading and excavation permits issued under Title 23,
 2. Creek permits issued under Title 11,
 3. Dam permits issued under Title 11,
 4. Quarry and mining permits issued under Title 23,
 5. Domestic water supply permits issued under Title 7,
 6. Individual sewage disposal system permits issued under Title 18;
- D. Tentative subdivision maps processed under Title 20, and other subdivision activities as defined by the state Subdivision Map Act;
- E. The issuance of building permits not exempted under Section 22.56.050I;
- F. Demolition of existing residential, commercial and other principal structures;
- G. Those repair and maintenance activities which involve seawalls and similar shoreline structures as identified in Section 22.56.050I(A);
- H. Those improvements and additions to existing buildings and structures which are identified in Section 22.56.055I(A-G) as requiring a coastal project permit;
- I. Projects conducted by public agencies and private individuals which would normally require a coastal project permit but which are undertaken as emergency measures for the protection of public safety during natural disasters. Such a project shall be reported to the deputy zoning administrator within three working days following its commencement and a coastal project permit applied for;
- J. All projects including those of state and local public agencies not

exempted by Section 22.56.050I or not otherwise requiring a coastal project permit.
(Ord. 2637 § 6 (part), 1981)

22.56.050I Projects exempt from coastal project permit requirements.

The following projects in the C districts shall be exempt from the requirements of a coastal project permit:

- A. Repair and maintenance activities that do not result in the addition to or enlargement or expansion of the object of such repair or maintenance, except that such repair and maintenance of seawalls, breakwater groins, bluff retaining walls or similar shoreline work shall require a coastal project permit;
- B. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers;
- C. The replacement of any structure, other than a public works facility, destroyed by natural disaster. Such replacement structure shall: (1) conform to applicable existing zoning requirements; (2) be for the same use as the destroyed structure; (3) not exceed either the floor area, height or bulk of the destroyed structure by more than ten percent; and (4) shall be sited in the same location on the affected property as the destroyed structure, unless the planning director determines that a relocation due to proximity to sensitive coastal resources is warranted;

As used in this subsection, "natural disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner;

As used in this subsection, "bulk" means total interior cubic volume as measured from the exterior surface of the structure;

- D. Except as provided in Section 22.56.055I, improvements and additions to existing structures and buildings, including:
 - 1. All fixtures and other structures, including decks, directly attached to the structure;
 - 2. For residential uses, structures on the property normally associated with residences, such as garages, swimming pools, fences and storage sheds; but not including guest houses or self-contained residential units. As used in this section "guest house" means any accessory structure having a floor area of more than four hundred square feet or any accessory structure which contains plumbing,

3. Landscaping on the lot;
 4. Additions resulting in an increase of less than ten percent of the internal floor area of an existing structure;
- E. Tentative subdivision maps brought about in connection with the purchase of land by a public agency for recreational purposes which are consistent with Section 30106 of the Coastal Act of 1976;
 - F. Demolition of any secondary or agricultural "historic structure," built prior to 1930, may be exempted from the requirement for a coastal permit upon a finding by the planning director or appropriate hearing body that such structure is not a significant historic resource;
 - G. Those projects which, pursuant to California Public Resources Code Section 30610 (d) and (f) and implementing regulations, as significantly designated as categorically excluded from the requirements of a coastal permit.
- (Ord. 2739 § 2, 1982; Ord. 2703 § 3, 1982; Ord. 2637 § 6 (part), 1981)

22.56.055I Projects requiring a coastal project permit.

The following types and classes of improvements and additions, in addition to those listed in Section 22.56.040I, shall require a coastal project permit:

- A. Improvements to any structure on a beach, wetland, stream or seaward of the mean high waterline as established by the U.S. Coast and Geodetic Survey;
- B. Any significant alteration of land forms including removal or placement of vegetation on a beach wetland or sand dune, or within one hundred feet of the edge of a coastal bluff, or stream or in areas of natural vegetation designated by the local coastal program as significant natural habitat;
- C. The expansion or construction of water wells or septic systems;
- D. On property located within the appeal jurisdiction of the California Coastal Commission pursuant to Public Resources Code Sections 30519 (b) and 30603 (a)(1) and (a)(2), an improvement that would result in an increase of ten percent or more of internal floor area of the existing structure, or constitute an additional improvement of ten percent or less where an improvement to the structure has previously been undertaken pursuant to this section, and/or the construction of an additional story (including lofts) in an existing structure;
- E. Any improvement to a structure where the development permit issued for

the original structure by the county or coastal commission indicated that any future improvements would require a development permit;

- F. Any improvement to a structure which increases or decreases the intensity of use of the structure, except as exempted in Section 22.56.050I (D)(4);
 - G. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold, including but not limited to a condominium conversion stock cooperative conversion or motel/hotel time-sharing conversion;
 - H. Except as exempted in Section 22.56.050I (F), any alteration, addition to or demolition of any structure constructed prior to 1930; provided, such addition, alteration or demolition would require a building permit pursuant to Title 19 of this code. Maintenance or repair to restore the structure to its original architectural character shall not require a coastal project permit.
- (Ord. 2739 § 3, 1982; Ord. 2637 § 6 (part), 1981)

22.56.060I Application for coastal permit.

Where required by this chapter, a coastal project permit shall be applied for prior to or concurrent with other necessary county project permit(s). Where possible, concurrent county processing shall take place. Such application shall be submitted to the planning director and shall be accompanied by such filing fee as established by resolution of the board of supervisors. The planning director shall provide application form(s) for project applications. Such forms shall provide for submission of a completed coastal project application. The planning director shall take the following actions:

- A. Determine if the proposed project is subject to the requirement of a coastal project permit and if so, determine the category of permit for the project in accordance with Section 22.56.062I;
 - B. File the application and provide notice of action on the application per Section 22.56.065I;
 - C. For those projects requiring a public hearing, transmit an application summary and recommendation thereon to the appropriate body specified in Section 22.56.070I.
- (Ord. 2637 § 6 (part), 1981)

22.56.062I Determination of permit category.

The planning director's determination of a project's permit status shall be made with reference to the certified local coastal program, including maps, categorical exclusions, land use designations and implementation programs adopted as a part of the local coastal program. Where the applicant or interested person disputes the planning

director's determination, the following procedure for resolution shall be utilized:

- A. Where the planning director determines that a coastal project is categorically excluded under the provisions of Section 22.56.050I(G), such determination shall not become final until the appeal period established herein has expired. The planning director shall maintain a listing of those projects determined to be categorically excluded from the requirements of a coastal project permit. This listing shall be available for public inspection and shall include the applicant's name, project description and location and the date of the planning director's determination. If the planning director's determination is disputed, an appeal letter, setting forth the grounds of the appeal must be filed with the planning commission. Such an appeal must be filed within five working days of the date of the planning director's original determination. The planning director shall notify the applicant and others who have requested such notice of the filing of such an appeal at least ten working days prior to the appeal's consideration by the planning commission. The planning director's report to the planning commission shall include the opinion of the coastal commission's executive director on the determination under question. The planning commission shall consider the written and verbal testimony it finds necessary to make its determination. The planning commission's decision shall be final unless appealed per the provisions of subsection D of this section.
- B. Where the planning director determines that a permit does not require a public hearing or is otherwise "not appealable" per the definitions of Section 22.56.070I, and such determination is disputed by an interested party, an appeal to the planning commission may be filed per the requirements and procedures set forth in subsection A of this section. Upon the filing of such an appeal, the planning director shall prepare a report to the planning commission, including the determination of the executive director of the coastal commission on the disputed issue. Should the planning commission determine the project is subject to the requirements of a public hearing, it shall return the application to the planning director for processing under the requirements so determined.
- C. If the planning director's determination that a coastal project is subject to the public hearing requirements of this chapter is disputed by the applicant or any interested person, such dispute shall be decided by the initial hearing body prior to action on the coastal project. In the case of such dispute, an appeal letter setting forth the grounds of the disagreement with the planning director's determination, must be filed with the planning department at least five working days prior to the initial public hearing scheduled for the project. In the case of such dispute, the planning director shall prepare a report of the disputed issue. The report shall include the opinion of the executive director of the coastal commission on the dispute. Upon the determination of the hearing body that a public hearing is

required, the hearing and action on the project shall be set for the next available meeting. Should the project be determined not subject to public hearing, the application shall be returned to the planning director for processing under the requirements so determined. Where the initial hearing body is not the planning commission, the determination of the project's hearing status may be appealed to the planning commission. Such appeals shall be filed per the requirements of subsection A of this section.

- D. The planning commission's determination of permit category may be appealed to the board of supervisors within five working days of the planning commission's decision. The board of supervisors may reject such an appeal where it determines the appeal raises no substantial issue or it may, following public notice, as established in subsection A of this section, determine the dispute under question. The board of supervisor's determination of permit category may be appealed to the coastal commission. Such an appeal must be filed with that commission within ten working days of the board of supervisor's decision.
 - E. Where, after final determination by the planning commission or the board of supervisors, the determination of the executive director of the coastal commission differs from the determination of the planning commission/board of supervisors, action on the proposed project shall be suspended pending a coastal commission decision of the permit category.
- (Ord. 2637 § 6 (part), 1981)

22.56.065I Notice required.

Notice of a pending action on a coastal permit shall be given as follows:

- A. Coastal project applications requiring a public hearing under Section 22.56.070I shall be noticed by mailing notices ten working days prior to the date of the hearing to all property owners within three hundred feet of the project boundary, to all interested groups and individuals which have requested such notice of coastal projects and to the California Coastal Commission. Additionally, the site of the proposed project shall be posted with a copy of the notice at least ten working days prior to the date of the hearing.
- B. Coastal project applications not requiring a public hearing under Section 22.56.070I shall be noticed by the mailing of notice at least ten working days prior to the decision on the project. Such notice shall be sent to property owners within three hundred feet of the project, to interested groups and individuals which have requested such notice and to the California Coastal Commission. Additionally, the site of the proposed project shall be posted with a copy of the notice at least ten working days prior to the date of hearing.

- C. The required notice may be combined with other required project permit notice(s) but shall be mailed by first class and shall include the following information:
1. A statement that the project is within the coastal zone, and that the project decision will include a determination on a coastal project permit;
 2. The date of the filing of the application, an identification number and name of the applicant;
 3. A description of the proposed project and its location;
 4. A determination of whether the project is appealable to the California Coastal Commission under Section 30603 (a) of the California Public Resources Code;
 5. The date, time and place of the hearing and/or decision on the application; and
 6. A brief description of the procedures for public comment and decision on the application including the system of appeal if applicable.
- D. If, in the opinion of the planning director, alternative and/or additional notice procedures are desirable or warranted, notice of a coastal project application shall be published in a newspaper of general circulation within the coastal zone at least seven working days prior to the hearing or intended decision on the application. The planning director may also require additional means of notice which is reasonably determined necessary to provide adequate public notice of the proposed project decision.
- E. If a decision on a development permit is continued to a date or time not specific, the item shall be renoticed in the same manner and within the same time limits as established within this section.
- (Ord. 2703 § 4, 1982; Ord. 2637 § 6 (part), 1981)

22.56.070I Action on coastal project permit.

For the purposes of notice and processing procedures, coastal development permits are divided into two categories.

- A. "Public hearing coastal project applications" are defined as those projects where either: (1) the C zone or title of the county code requires a public hearing or other discretionary action by a county officer, board or commission including, but not limited to: land divisions, subdivisions,

variances, use permits, design reviews, master plans, development plans, sign reviews, tideland permits, excavation permits, and quarrying permits, or (2) the project is defined as an appealable project per California Public Resources Code Section 30603 (a).

Where the action required for the project by its C zone or other title of county code is to be made by the deputy zoning administrator, environmental protection committee, planning commission, or board of supervisors, that officer, board or commission shall concurrently conduct a public hearing and approve or deny the application for a coastal project permit.

Where the action required for the project by its C zone or other title of county code is to be made by the planning director, or any other county officer, and a public hearing is required pursuant to this section, the deputy zoning administrator shall hold a public hearing and approve or deny the coastal project application.

For projects requiring multiple approvals under the various titles of county code, and where at least one approval is required by the deputy zoning administrator or planning commission, the deputy zoning administrator or planning commission may hold the public hearing and approve or deny the coastal project application.

For appealable projects or other public hearing coastal projects for which the county permit requirements do not identify a decision or hearing body, the coastal project application shall be heard and approved or denied by the deputy zoning administrator.

- B. "Non-hearing coastal projects permits" are identified as those projects for which the C zone or title does not require a public hearing or other discretionary action by a county officer, board or commission or is not appealable as defined by California Public Resources Code Section 30603 (a). Where a coastal project permit application is determined a nonhearing application, the planning director shall approve or deny the application for the coastal project permit.

(Ord. 2637 § 6 (part), 1981)

22.56.075I County appeals of coastal project permit action.

County action on a coastal project permit shall not be final until the appeal period(s) established in Chapter 22.89I (Appeals) and this section expires, or if appealed, until all levels of appeal brought by an appellant in conformance with this section have been exhausted. Upon receipt of an appeal, the appellate body shall provide notice as required in Section 22.56.065I. Appeals shall be filed with the appropriate county appellate body setting forth the grounds of appeal. The action on the coastal development permit, including any conditions may be appealed to county appellate bodies by any person as established in Chapter 22.89I. Such appeals must be filed in the office of the appellate body not later than five p.m. of the fifth working day following the date of the action from which the appeal is taken.

(Ord. 2637 § 6 (part), 1981)

22.56.080I Appeals to the California Coastal Commission.

For those coastal project permits which are approved for developments defined as "appealable" under California Public Resources Code, Section 30603 (a), an appeal may be filed with the California Coastal Commission by: (1) an aggrieved party; (2) the applicant; or (3) two members of the coastal commission. Such appeals must be filed in the office of the California Coastal Commission not later than five p.m. of the tenth working day following the date of action from which the appeal is taken. In the case of an appeal by an applicant or aggrieved party, the appellant must have first pursued appeal to the county appellate body (or bodies) as established in Section 22.56.075I of this chapter to be considered an aggrieved party.

Where two coastal commissioners bring an appeal against a project which was approved by a person or body other than the board of supervisors, the board may, at its option, elect to consider the appeal prior to any action by the coastal commission. The board of supervisors shall notify the coastal commission of its decision to consider such an appeal within twelve working days of the county's receipt of notice of an appeal by two coastal commissioners. County action on an appealable project shall not be deemed final if the board of supervisors elects to consider such appeals. The notice requirements of Section 22.56.065I shall apply to those projects the board of supervisors may elect to hear.

(Ord. 2637 § 6 (part), 1981)

22.56.090I Projects requiring a coastal development permit from the California Coastal Commission.

Notwithstanding other permit and appeal provisions of this chapter, development proposals which are located on lands identified as tidelands, submerged lands or public trust lands shall, pursuant to the requirements of California Public Resources Code Section 30519 (b), require a coastal permit from the California Coastal Commission. Determination of jurisdiction shall be based upon maps and other descriptive information identifying such lands, which the county, the California Coastal Commission and/or State Lands Commission may supply. Applicants whose land is seaward of the line of Coastal Commission original jurisdiction shall apply to the Coastal Commission for coastal development permits. Before issuing a coastal permit, the Commission will refer the application to the State Lands Commission for a determination whether a State Lands Commission permit or lease is required for the proposed development and whether the State Lands Commission finds it appropriate to exercise the easement over that property. The Coastal Commission shall also refer the application to the county of Marin for review and comment. County designation of land use on public trust lands shall be advisory only. Applicants whose land is landward of the line of Coastal Commission jurisdiction shall apply to the county of Marin for a coastal project permit in accordance with this chapter.

(Ord. 2703 § 5, 1982; Ord. 2637 § 6 (part), 1951)

22.56.095I Findings.

A coastal project permit shall be approved only upon findings of fact establishing that the project conforms to the requirements and objectives of the local coastal program. Said findings shall reference applicable policies of the local coastal program where necessary or appropriate. Where the project is located between the nearest public road and the sea or the shoreline of Bolinas Lagoon, the findings shall include a determination of the project's conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Section 30200 of the Public Resources Code). For projects involving demolitions, the findings shall explicitly establish the projects's conformance with the LCP policies and the requirements established by Section

22.56.130I.

(Ord. 2637 § 6 (part), 1981)

22.56.100I Notice of final action.

Within seven calendar days of a final county decision on an application for a coastal project permit, the planning director shall provide notice of the action by first class mail to the California Coastal Commission and to any persons who specifically requested such notice and provided a self-addressed, stamped envelope or other designated fee covering mailing costs. Such notice shall include conditions of approval, written findings and the procedures for appeal of the county decision to the California Coastal Commission.

(Ord. 2637 § 6 (part), 1981)

22.56.105I Failure to act--Notice.

A. Notification by Applicant. If the county has failed to act on an application within the time limits set forth in Article 5, ("Approval of Development Permits") of Title 7, Division I, Chapter 4.5 of the Government Code, commencing with 65950, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Section 65950 et seq. shall notify, in writing, the county and the coastal commission of the claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.

B. Notification by Local Government. Upon determination that the time limits established pursuant to Government Code Section 69550 et seq. have expired, the planning director shall, within five working days of such determination notify those persons entitled to receive notice pursuant to Section 22.56.065I that it has taken final action by operation of law pursuant to Government Code Section 65956. The appeal period for projects approved by operation of law shall begin only upon receipt of the county's notice in the office of the California Coastal Commission.

(Ord. 2637 § 6 (part), 1981)

22.56.110I Effective date of final action on coastal project.

A final decision of a local government on an application for an appealable development shall become effective after the ten working day period to the California Coastal Commission has expired or after the twenty-first calendar day following the final local action unless any of the following occur:

- A. An appeal is filed in accordance with Section 22.56.080I;
- B. The notice of final coastal project permit does not meet the requirements of Section 22.56.100I;
- C. The notice of final action is not received in the California Coastal Commission office and/or distributed to interested parties in time to allow for the ten working day appeal period within the twenty-one days after the county decision.

Where any of the above circumstances in subsections A through C of this section occur, the coastal commission shall, within five working days of receiving notice of that circumstance, notify the local government and the applicant that the effective date of the local government action has been suspended.
(Ord. 2637 § 6 (part), 1981)

22.56.115I Amendments to coastal project permits.

A coastal project permit may be amended by the original approving officer or body in the same manner specified for initial approval. Amendment requests shall be subject to the appeal provisions established in Sections 22.56.075I and 22.56.080I, as applicable.
(Ord. 2637 § 6 (part), 1981)

22.56.120I Expiration date and time extensions.

A coastal project permit shall expire two years from the effective date of approval. Prior to expiration of a coastal project permit approval, the applicant may apply for an extension up to a maximum period of four years from the original date of expiration. Notice of a permit extension request shall be provided as established in Section 22.56.065I. For permits originally issued following a public hearing, pursuant to Section 22.56.070I (A), the deputy zoning administrator shall hear and decide the extension request. Extensions for coastal project permits originally issued pursuant to Section 22.56.070I (B) shall be issued by the planning director. Coastal project permit extensions may be granted upon findings that the project continues to be in conformance with the requirements and objectives of the certified local coastal program. Permit extensions may be appealed as established in Section 22.56.080I. If a building permit or other permit is issued during the effective life of a coastal project permit, the expiration date of the coastal project permit shall be automatically extended to concur with the expiration date of the permit.
(Ord. 3126 § 2, 1993; Ord. 2637 § 6 (part), 1981)

22.56.130I Development requirements, standards and conditions.

A. Water Supply. Coastal project permits shall be granted only upon a determination that water service to the proposed project is of an adequate quantity and quality to serve the proposed use.

1. Except as provided in this section, the use of individual water wells shall be allowed within the zone in conformance with Chapter 7.28 (Domestic Water Supply) of the Marin County Code:
 - a. New developments located within the service area of a community or mutual water system may not utilize individual domestic water wells unless the community or mutual water system is unable or unwilling to provide water or the physical distribution improvements are economically or physically infeasible to extend to the proposed site. Additionally, wells or water sources shall be at least one hundred feet from all property lines or a finding shall be made that no development constraints are placed on neighboring properties.
 - b. Within the Inverness planning area, individual wells for domestic use shall not be allowed on parcels of less than 2.8 acres in size. Exceptions to this requirement may be granted pursuant to the issuance of a coastal permit. In addition to the findings of Chapters 22.56I and 22.86I, the applicant must demonstrate to the satisfaction of the health officer that a well can be developed on the substandard size parcel in a completely safe and sanitary manner.
 - c. Within the Inverness public utility district (IPUD), individual wells for domestic use shall not be permitted in the same watershed, at an elevation higher than the IPUD surface water sources existing as of June 14, 1983.
 - d. The issuance of a coastal permit for any well shall be subject to a finding that the well will not have an adverse impact on coastal resources individually or cumulatively.
2. Prior to the authorization of subdivisions or construction of projects utilizing individual water wells, the applicant shall demonstrate a sustained water-well yield of at least one gallon per minute per residential unit. Additional requirements for fire protection, including increased yield rates, water storage facilities and fire hydrants shall be installed as recommended by the applicable fire protection agency.
3. New community and mutual water wells serving five or more parcels shall demonstrate, by professional engineering studies, that such groundwater

withdrawal will not adversely affect aquifer systems. Such engineering studies shall provide the basis of establishing safe, sustained yields from these wells.

4. New development shall be required to incorporate low-flow water fixtures and other water-saving devices.

B. Septic System Standards. The following standards apply for projects which utilize septic systems for sewage disposal.

1. All septic systems within the coastal zone shall conform with the "Minimum Guidelines for the Control of Individual Wastewater Treatment and Disposal Systems" adopted by the Regional Water Quality Control Board on April 17, 1979, or the Marin County Code, whichever is more stringent. No waivers shall be permitted except where a public entity has formally assumed responsibility for inspecting, monitoring and enforcing the maintenance of the system in accordance with criteria adopted by the Regional Water Quality Control Board, or where such waivers have otherwise been reviewed and approved under standards established by the Regional Water Quality Control Board.
2. Alternate waste disposal systems shall be approved only where a public entity has formally assumed responsibility for inspecting, monitoring and enforcing the maintenance of the system in accordance with criteria adopted by the Regional Water Quality Control Board.
3. Where a coastal project permit is necessary for the enlargement or change in the type or intensity of use of an existing structure the project's septic system must be determined consistent with the current guidelines of the Regional Water Quality Control Board or such other program standards as adopted by the county.

C. Grading and Excavation. The following standards shall apply to coastal projects which involve the grading and excavation of one hundred fifty cubic yards or more of material:

1. Development shall be designed to fit a site's topography and existing soil, geological, and hydrological conditions so that grading, cut and fill operations, and other site preparations are kept to an absolute minimum and natural landforms are preserved. Development shall not be allowed on sites, or areas of a site, which are not suited to development because of known soil, geology, flood, erosion or other hazards that exist to such a degree that corrective work, consistent with these policies (including but not limited to the protection of natural landform), is unable to eliminate hazards to the property endangered thereby.
2. For necessary grading operations, the smallest practicable area of land

shall be exposed at any one time during development and the length of exposure shall be kept to the shortest practicable time. The clearing of land shall be discouraged during the winter rainy season and stabilizing slopes shall be in place before the beginning of the rainy season.

3. In addition to such standards as may be imposed under Section 23.08.090, the following standards shall be required:

- a. Sediment basins (including debris basins, desilting basins, ponding areas or silt traps) shall be installed at the beginning of grading operations and maintained throughout the development process to remove sediment from runoff waters. Temporary vegetation, seeding, mulching, or other suitable stabilization methods shall be used to protect soils which have been exposed during grading or development. Cut and fill slopes shall be permanently stabilized as soon as possible with native plants or other suitable landscaping techniques.
- b. The extent of impervious surfaces shall be minimized to the greatest degree possible. Water runoff beyond natural levels shall be retained on-site whenever possible to facilitate maximum groundwater recharge. In order to prevent gullying on-site and down stream erosion of existing stream channels, the velocity of runoff on and off the site shall be dissipated through the application of appropriate drainage controls so that the runoff rate does not exceed the stormwater runoff from the area in its natural or undeveloped state. Grassed or natural waterways are preferred to concrete storm drains for runoff conveyance.
- c. Pollutants such as chemicals, fuels, and other harmful materials shall be collected and disposed of in an approved manner.
- d. Where topsoil is removed by grading operations, it shall be stock-piled for subsequent reuse, where appropriate.
- e. All debris shall be removed from the site upon the completion of the project.
- f. Permit applications for grading which involve cut slopes in excess of eight feet or fill in excess of five feet shall include a report from a registered soils or civil engineer.

D. Archaeological Resources.

1. Prior to the approval of any proposed development within an area of known or probable archaeological significance, a limited field survey by a qualified professional at the applicant's expense shall be required to

determine the extent of the archaeological resources on the site. Where the results of such survey indicate the potential to adversely impact probable archaeological resources, the report shall be transmitted to the appropriate clearinghouse for comment. The county planning department shall maintain a confidential map file of known or probable archaeological sites so as to assist in site identification.

2. Where development would adversely impact archaeological resources or paleontological resources which have been identified, reasonable mitigation measures shall be required as may be recommended by the field surveyor or by the State Historic Preservation Officer. Such mitigation shall include, as necessary:
 - a. The resiting or redesign of development to avoid the site;
 - b. That, for a specified period of time prior to the commencement of development, the site be opened to qualified, approved professional/ educational parties for the purpose of exploration/excavation;
 - c. The utilization of special construction techniques to maintain the resources intact and reasonably accessible;
 - d. Where specific or long-term protection is necessary, sites shall be protected by the imposition of recorded open space easements; and
 - e. For significant sites of unique archaeological resource value, where other mitigation techniques do not provide a necessary level of protection, the project shall not be approved until the determination is made that there are no reasonably available sources of funds to purchase the property.

E. Coastal Access:

1. All coastal project permits shall be evaluated to determine the project's relationship to the maintenance and provision of public access and use of coastal beaches, waters and tidelands.
 - a. Except as provided in paragraph b below, for projects located between the sea and first public road (as established by the mapped appeal area), a coastal project permit shall include provisions to assure public access to coastal beaches and tidelands. Such access shall include, either singularly or in combination:
 - i. The offer of dedication of public pedestrian access easements from the public road to the ocean;

- ii. The offer of dedication of public access easements along the dry sand beach areas adjacent public tidelands; and
- iii. Bluff top trail easements where necessary to provide and maintain public views and access to coastal areas.

Such offers of easement shall be for a minimum period of twenty years and shall provide for the easement acceptance by an appropriate public agency and/or private organization. Liability issues pertaining to the access easement shall be resolved prior to acceptance of any offer of dedication.

- b. Upon specific findings that public access would be inconsistent with the protection of: (1) public safety; (2) fragile coastal resources; or (3) agricultural production or, upon specific findings that public use of an accessway would seriously interfere with the privacy of existing homes, provision for coastal access need not be required. In determining whether access is inconsistent with the above, the findings shall specifically consider whether mitigation measures such as setbacks from sensitive habitats, trail or stairway development, or regulation of time, seasons, or types of use could be developed which would adequately mitigate any potential adverse impacts of public access. A finding that an access way can be located ten feet or more from an existing single-family residence or be separated by a landscape buffer or fencing if necessary should be considered to provide adequately for the privacy of existing homes.
- c. Prescriptive Rights. Where evidence of prescriptive rights (historic public use) is found in reviewing a coastal permit application, equivalent access easements to protect the types, intensity and areas subject to prescriptive rights shall be required as a condition of permit approval. Development may be sited in an area of historic public use if equivalent type, intensity and area of replacement public access is provided on or reasonably adjacent to the project site (parcel). If requirement of access easements to protect areas of historic use would preclude all reasonable private use of the project site, the county, in consultation with the Coastal Commission and the California Attorney General's Office, shall review the existence of prescriptive rights. If the county concludes that convincing evidence of implied dedication or prescriptive rights in favor of the public exists, the county or the Coastal Commission and the Attorney General at the request of the county shall, consistent with the availability of staff and funds, seek a court determination and confirmation of such public rights. If, after sixty days, the county concludes that such evidence is inconclusive, the county may approve development on such areas

(except those used for lateral access), provided that all impacts on public access are mitigated in the same vicinity substantially in accordance with the local coastal program's public access policies. Such mitigation may include securing an accessway on other property in the same vicinity, or providing an in-lieu fee to a public agency or private association approved by the county and Commission for acquisition, improvement, or maintenance of access in the same vicinity. Same vicinity is considered to be within one thousand feet or less of the project site (parcel).

- d. Where development involves land which may be subject to the doctrine of public trust easements, a project description shall be forwarded to the office of the State Lands Commission for its determination of the status of the land in question. The State Lands Commission shall be requested to indicate if the project is located on tidelands or submerged lands and whether a State Lands Commission permit or lease is required for the proposed development. Such a determination shall be made prior to any authorization of construction for a coastal project. County action on proposed coastal projects identified as located upon tidelands, submerged lands or public trust lands, per the provision of Public Resources Code Section 30519 (b), shall be advisory only. Such project applications, including those advisory recommendations as the county deems appropriate, shall be forwarded to the California Coastal Commission for its action on the coastal project.

2. Specific Geographic Requirements--Coastal Access.

- a. Mount Tamalpais State Park and Lands. The development of additional recreational and visitor services on those portions of the Mount Tamalpais State Park within the coastal zone, including hiking trails, equestrian trails, a "primitive" hostel at the Steep Ravine cabins and improved parking and support facilities at Red Rock are consistent with the LCP policies. Such facilities shall be similar in design, size and/or location as those proposed by the Mount Tamalpais State Park Plan. Consistent with the protection of significant resources, additional trail development to improve access to public tidelands is encouraged.
- b. Maintenance of Existing Coastal Access. Development which may interfere with existing coastal access shall not be permitted or shall be conditioned to assure substantially the same level and location of public access is maintained. The following specific access areas shall be retained through coastal permit regulation program:
 - i. Stinson Beach. The county park lands at Calle del Sierra: (Upton Beach) established pedestrian access ways at Walla

Vista and the Calles, and the maintenance of on-street parking along the northerly side of Calle del Arroyo;

- ii. Bolinas. Historic public use of the two access trails across Bolinas Mesa to the RCA beach and of the beach area itself shall be protected in accordance with the access program approved by the North Central Coast Regional Commission in its action on Permit No. 31-78 (Commonweal). As provided by the conditions of the commonweal permit approval, use of the access trails and beach areas shall be limited to the level and character of the historic use of the property (including but not limited to use for beach access, hiking, swimming, and horseback riding) in order to protect the natural resources of Duxbury Reef. The public access to Duxbury Reef shall continue under present management programs.

F. Housing. Existing residential buildings which provide housing opportunities for persons of low and moderate income (as defined by the most recent federal housing and urban development guidelines) shall be removed or demolished only upon specific findings that:

1. The structure poses an immediate and established health or safety hazard;
2. Based upon established procedures, that the rehabilitation of the existing structure is not feasible ("feasible" shall be defined per Section 30108 of the Coastal Act); and
3. Such demolition coupled with subsequent reconstruction would provide replacement housing of comparable rental value either on site or within the immediate coastal zone area.

G. Stream and Wetland Resource Protection. The following standards shall apply to all development within or adjacent streams identified as blue-line streams on the most recent edition of the USGS seven and one-half minute quadrangle map(s) for the project area.

1. Stream impoundments and diversions shall be limited to necessary water supply projects, flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or developments where the primary function is the improvement of fish and wildlife habitat. Before any such activities are permitted, minimum flows necessary to maintain fish habitat and existing water quality, and to protect downstream resources (e.g., riparian vegetation, groundwater recharge areas, receiving waters, estuarine habitats, spawning areas) and other downstream users shall be determined

by the Department of Fish and Game and the Division of Water Rights of the State Water Resources Control Board. New impoundments or diversions which, individually or cumulatively, would decrease streamflows below the minimum shall not be permitted.

2. The alteration of stream channels and banks shall be allowed only for the developments identified in subdivision G1 of this section in order to protect streamwater quality and the volume and rate of streamflow. All such developments shall incorporate the best mitigation measures feasible, including erosion and runoff control measures and revegetation of disturbed areas with native species.
3. For proposed projects located adjacent to streams, application submittals shall include the identification of existing riparian vegetation as a riparian protection area. No construction, alteration of land forms or vegetation removal shall be permitted within such riparian protection area. Additionally, such project applications shall identify a stream buffer area which shall extend a minimum of fifty feet from the outer edge of riparian vegetation, but in no case less than one hundred feet from the banks of a stream. Development shall not be located within this stream buffer area. When a parcel is located entirely within a stream buffer area, design review shall be required to identify and implement the mitigation measures necessary to protect water quality, riparian vegetation and the rate and volume of stream flows. The design process shall also address the impacts of erosion and runoff, and provide for the restoration of disturbed areas by replacement landscaping with plant species naturally found on the site. Where a finding based upon factual evidence is made that development outside a riparian protection or stream buffer area would be more environmentally damaging to the riparian habitat than development within the riparian protection or stream buffer area, development of principal permitted uses may occur within such area subject to design review and appropriate mitigation measures.
4. Development applications on lands surrounding Bolinas Lagoon and other wetlands as identified on the appeals area map(s) shall include the designation of a wetland buffer area. The buffer area shall include those identified or apparent wetland related resources but in no case shall be less than a minimum of one hundred feet in width from the subject wetland. To the maximum extent feasible, the buffer area shall be retained in a natural condition and development located outside the buffer area. Only those uses dependent upon the resources of the wetland shall be permitted within the wetland buffer area.
5. The diking, filling, dredging and other alterations of wetlands shall occur only for minor, public works projects and shall be in conformance with the Coastal Act Section 30233. No physical improvements along the county parklands surrounding Bolinas Lagoon shall occur. Land uses in and

adjacent to wetlands shall be evaluated as follows:

- a. Filling of wetlands for the purposes of single-family residential development shall not be permitted.
 - b. Allowable resource-dependent activities in wetlands shall include fishing, recreational clamming, hiking, hunting, nature study, birdwatching and boating.
 - c. No grazing or other agricultural uses shall be permitted in wetlands except in those reclaimed areas presently used for such activities.
 - d. A buffer strip one hundred feet in width, minimum, as measured landward from the edge of the wetland, shall be established along the periphery of all wetlands. Development activities and uses in the wetland buffer shall be limited to those allowed pursuant to Section 30233 of the Coastal Act of 1976.
 - e. As part of the development on any parcel adjacent to Tomales Bay, except where there is no evidence of wetlands pursuant to the Coastal Commission's adopted guidelines, the applicant shall be required to submit supplemental biological information prepared by a qualified ecologist at a scale sufficient to identify the extent of existing wetlands based on Section 30121 of the Coastal Act and the area of the proposed buffer areas.
 - f. All conditions and standards of the LCP, relating to diking, filling and dredging shall be met.
6. In order to protect the significant wetland and upland habitat value of that eleven-acre property known as the Henry Wilkins property (AP # 195-290-13 and 24) and any change in the present density and type of use shall be preceded by a detailed environmental investigation and assessment of the resources of the site. No development or change in use which adversely impacts these resource values shall be permitted.
- H. Dune Protection.
1. No development, including grading, erection of fences, signs or other primary or accessory structures shall be permitted seaward of that undeveloped right-of-way known as Mira Vista Street in Stinson Beach.
 2. Except for those shoreline protective works otherwise permitted by this chapter, development, including signs, fences and grading activities shall not be permitted seaward of the established building setback lines established by zoning districts for shoreline parcels.

3. Development of shorefront lots within the Stinson Beach and Seadrift area shall assure preservation of the existing sand dune formations in order to protect environmentally sensitive dune habitat, vegetation and to maintain the natural protection from wave runup which such natural dunes provide. Where no dunes are evident, new development shall, to the maximum extent feasible, be set back behind the first line of terrestrial vegetation. Development approvals for new projects located along such shorefront parcels shall be accompanied by findings, including mitigation conditions, establishing the project's design and location, minimizing the need for shoreline protective works, protecting sandy beach habitat, providing a buffer area between public and private use areas, protecting the scenic and recreational character of the beach and maintaining the public rights of access to and use of beach dry sand areas. Permits authorizing repair and maintenance to existing shoreline structures shall to the extent feasible, provide for the above standards and objectives.
4. Project proposals for the subdivision of beach front lots shall be permitted only upon explicit findings that the increased development density and/or location is consistent with the standards and objectives established in subdivision 3 of this subsection.
5. No development shall be permitted in the sensitive coastal dune habitats in order to preserve dune formations, vegetation and wildlife habitats. Overuse in dune areas shall be prevented by such mechanisms as restricting parking, directing pedestrian traffic to areas capable of sustaining increased use, and fencing. No motor vehicles shall be permitted in beach or dune areas except for emergency purposes.

I. Wildlife Habitat Protection.

1. Proposal to remove significant vegetation on sites identified on the adopted natural resource map(s) and generally described in Section 2 of the LCP shall require a coastal permit. Significant alteration or removal of such vegetation shall not be permitted except where it poses a threat to life or property.
2. Siting of New Development. Coastal project permit applications shall be accompanied by detailed site plans indicating existing and proposed construction, major vegetation, watercourses, natural features and other probable wildlife habitat areas. Development shall be sited to avoid such wildlife habitat areas and to provide buffers for such habitat areas. Construction activities shall be phased to reduce impacts during breeding and nesting periods. Development that significantly interferes with wildlife movement, particularly access to water, shall not be permitted.

J. Protection of Native Plant Communities. Where the officer or body reviewing a coastal project application determines that a project site contains a significant

number or type of nonindigenous, invasive plant species which would threaten the preservation or reestablishment of native plant species, either on or off site, the project's approval shall be conditioned upon the removal of such nonindigenous plant material.

K. Shoreline Protection.

1. Bluff Top Setbacks. New structures shall be set back from coastal bluff areas a sufficient distance to ensure with reasonable certainty that they are not threatened from cliff retreat within their economic life expectancies. Adequate setback distances will be determined from information contained in required geologic reports and the setback formula established below. These setbacks will be of sufficient distance to eliminate the need for shoreline protective works. The following formula will be used to determine setbacks from the bluff for new structures:

$\text{Setback (meters)} = \text{structure life (years, normally at least 40 years)} \times \text{retreat rate (meters/year)}$. In areas where vigorous sliding is taking place, an additional 15 meters should be added as a safety factor.

The retreat rate shall be determined by a geotechnical investigation conducted by a professional engineer or registered geologist which explicitly examines the site's geotechnical capability to adequately support the proposed development. The report shall include the historic and projected rate(s) of bluff retreat attributable to wave and/or surface runoff erosion. The geotechnical report shall be required in either of the following:

- a. The building or proposed development site is within one hundred fifty feet of a blufftop.
 - b. The building site is located within stability zones 3 or 4 as indicated on the slope stability maps for the Bolinas and Tomales areas, which maps accompany Wagner's 1977 report, "Geology for Planning, Western Marin County." This report and accompanying maps are incorporated by reference as part of this chapter.
2. Standards and requirements for shoreline protective works. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline process shall be permitted only when:
 - a. Required to serve coastal-dependent uses or to protect existing structures (constructed before adoption of the LCP).
 - b. No other nonstructural alternative is practical or preferable.
 - c. The condition causing the problem is site specific and not

attributable to a general erosion trend, or the project reduces the need for a number of individual projects and solves a regional erosion problem.

- d. The structure will not be located in wetlands or other significant resource or habitat area, and will not cause significant adverse impacts to fish or wildlife.
- e. There will be no reduction in public access, use and enjoyment of the natural shoreline environment, and construction of a structure will preserve or provide access to related public recreational lands or facilities.
- f. The structure will not restrict navigation, mariculture or other coastal use and will not create a hazard in the area in which it is built.

In the absence of an overall wave hazard/shoreline erosion study, any permit application for seawalls, riprap or other protective structures on beaches, shall be accompanied by engineering reports stating the nature and extent of wave erosion hazard along the beach area and an explanation of how the proposed protective works will mitigate the hazard, both on and off the project site. This requirement shall not apply to emergency permit applications applied for prior to January 1, 1983. Emergency permit applications after that date shall be subject to report requirement or shall specifically establish why the need for such protective devices was not foreseen and previously addressed through nonemergency permit applications.

Applications for placement of protective structures on beaches shall be accompanied by an engineers report unless an overall wave hazard/ shoreline erosion report exists. Said engineers report shall include:

- a. A statement of the nature and extent of wave erosion hazard;
- b. An analysis of how the proposed protective works will mitigate the hazard both on and off the site;
- c. An assessment of any adverse impacts to adjacent properties or resources that might reasonably be expected to result from construction of the protective structure.

Design standards for all shoreline structures. The design and construction of any shoreline structure shall:

- a. Make it as visually unobtrusive as possible;

- b. Respect natural landforms to the greatest degree possible;
 - c. Include mitigation measures to offset any impacts on fish and wildlife resources caused by the project;
 - d. Minimize the impairment and movement of sand supply and the circulation of coastal waters;
 - e. Address the geologic hazards presented by construction in or near Alquist-Priola earthquake hazard zones;
 - f. Provide for the reestablishment of the former dune contour and appearance.
- L. Geologic Hazardous Areas.
- 1. Prior to the issuance of a coastal development permit for projects located in areas depicted by the Unit I LCP geologic hazards maps, the owner (applicant) shall:
 - a. Execute and record a waiver of public liability holding the county, other governmental agencies and the public harmless because of loss experienced by geologic activities. The waiver of liability shall be in a form approved by county counsel and run with the property; and
 - b. Submit along with the permit application, a report from a registered civil or structural engineer briefly describing the extent of potential geologic hazards and those construction, siting and other recommended techniques to mitigate those possible geologic hazards.

The planning commission, following consultation with the director of public works, may modify said requirement in subdivision 1 above for selected areas or types of projects where the commission finds that:

- i. The project area is of the same general geologic nature and sufficient data has been developed (such as by a "Master Engineering Report") to adequately judge the risk and resulting standards necessary for such areas; or
 - ii. The type of project is a minor structure, not for human habitation, which presents little risk on or off site, by possible geologic hazards.
- 2. Floodplain Development. Coastal project permit applications adjacent to

streams which periodically flood shall include a site plan that identifies the one hundred-year floodplain (as described by the Army Corps of Engineers). Development of permanent structures and other significant improvements shall not be permitted within the limits of the one hundred-year floodplain.

M. Public Works Projects.

1. Transportation. Highway 1 shall remain a scenic two-lane roadway. Roadway improvements to Highway 1 and other public roadways shall not, either individually or cumulatively, distract from rural, scenic characteristics of the existing roadway.

Improvements (beyond repair and maintenance) shall be limited to minor roadway improvements as identified below:

- a. Slope stabilization, drainage control and minor safety improvements such as guardrail placement, signings;
 - b. Expansion of roadway shoulder paving to accommodate bicycle/pedestrian traffic along the highway shoulder;
 - c. Creation of slow traffic and vista turnouts as a safety and convenience improvement;
 - d. Other minor selected roadway improvements necessary to adequately accommodate public transit consistent with the goals of this policy; providing, however, that no filling of streams or wetlands shall be permitted. Specifically, the development of new public transit service routes and associated off-loading and turn facilities is consistent with the LCP policy to utilize public transit to meet increased use of coastal recreational areas.
2. Water and Sewer Improvements. In the consideration of a coastal project permit for expansion of water and/or sewer treatment facilities for the Bolinas Public Utility District, the county shall determine that adequate water and/or sewer treatment capacity is guaranteed from the expanded facilities to serve VCR zoned property in the community.
 3. Other Public Works Project Standards and Requirements. Roads, flood control projects and utility service expansions shall be limited to the minimum necessary to serve development as identified by LCP land use policies. All such public works projects shall conform to the resource and visual policies of the LCP and the requirements of this chapter.

N. Land Division Standards. Land divisions of small agricultural holdings designated under ARP zoning shall conform to the following standards: New land

divisions shall demonstrate to the planning director that the design of the created parcels provides the maximum feasible concentration of clustering. Clustering shall be located both to provide for the retention of the maximum amount of land in agricultural use and to protect important upland feeding areas. Clustered development shall also be located in the area of least environmental sensitivity on the parcel. Open space easements or other restrictions shall be required to designate intended use and restrictions on the property being subdivided.

O. Visual Resources and Community Character.

1. All new construction in Bolinas, Stinson Beach, and Muir Beach shall be restricted to a maximum height of twenty-five feet; except that the Stinson Beach Highlands will have a maximum height of seventeen feet, and the Seadrift Subdivision will have a maximum of fifteen feet above finished floor elevation.
2. To the maximum extent feasible, new development shall be designed and sited so as not to impair or obstruct existing coastal views from Highway 1 or Panoramic Highway.
3. The height, scale and design of new structures shall be compatible with the character of the surrounding natural or built environment. Structures shall be designed to follow the natural contours of the landscape and sited so as not to obstruct significant views as seen from public viewing places.
4. Development shall be screened with appropriate landscaping; however, such landscaping shall not, when mature, interfere with public views to and along the coast. The use of native plant material is encouraged.
5. Signs shall be of a size, location and appearance so as not to detract from scenic areas or views from public roads and other viewing points and shall conform to the county's sign ordinance.
6. Distribution utility lines shall be placed underground in new developments to protect scenic resources except where the cost of undergrounding would be so high as to deny service.
7. Standards for development in RSP districts on the shoreline of Tomales Bay:
 - a. Existing dwellings shall be permitted to be rebuilt if damaged or destroyed by natural disaster, provided that the floor area height and bulk of the new structure shall not exceed that of the destroyed structure by more than ten percent. Any proposed improvement to an existing house which results in an increase of internal floor area of more than ten percent shall require a coastal permit in order to ensure that such improvement is sited and designed to minimize

impacts on Tomales Bay.

- b. New residential construction shall be limited in height to fifteen feet, as measured from natural grade on the highest side of the improvement to the highest point of the roof or any projection therefrom. Exceptions to this height limit may be permitted where the topography, vegetation, or character of existing development is such that a higher structure would not create additional interference with coastal views either to, along, or from the water.
- c. New development shall meet all other LCP policies, including those on public access, natural resources and wetland protection, shoreline structures, diking/filing/dredging, public services, hazards, visual resources, and new development.

P. Recreational/Commercial/Visitor Facilities. In order to maintain the established character of the village commercial areas in Stinson Beach and Bolinas, a mixture of residential and commercial uses shall be permitted within the VCR zone. The principal permitted use of the VCR zone in the two village centers shall include commercial and residential uses; provided, however, that new residential uses shall be permitted only if they are incidental to the commercial use. Exclusive residential uses shall also be permitted as a conditional use; however, in no case shall such use be permitted on more than twenty-five percent of the lots which are vacant at the time of adoption of the ordinance codified in this chapter in each community. Replacement of any existing residential use destroyed by natural disaster shall be exempt from this provision and will be permitted.

Q. Historic Research Preservation. In the issuance of any coastal permit, the planning director or appropriate hearing body shall make findings that the proposed project is consistent with the historic resource policies of the local coastal plan and the historic study. Additionally, when considering any permit which pertains to any identified historic area or pre-1930 structure, the following criteria shall apply:

- 1. New Construction. New construction located within an identified historic area shall be consistent in scale, design, materials and texture with the surrounding community character.
- 2. Alterations and Additions. Alterations or additions to any pre-1930 structure shall retain the scale and original architectural features of the structure, especially for the front facade.
- 3. Demolitions. Issuance of a coastal project permit for the demolition of any pre-1930 structure may be delayed for a period not to exceed six months. During this period, the property owner or local historic group or society may attempt to find a purchaser or alternate location for the structure. This six-month period may be waived by the planning director or appropriate hearing body upon a finding that the structure is not historically significant

or cannot be rehabilitated.
(Ord. 2739 § 4, 1982; Ord. 2703 §§ 6, 7, 8, 9, 10, 11, 1982; Ord. 2637 § 6 (part), 1981)

22.56.140I Violations and enforcement.

Any person, firm or corporation, whether as principal agent, employee or other wise, violating any of the provisions of this chapter, shall be subject to the provisions of California Public Resources Code 30800 et seq. and these regulations adopted pursuant to those provisions. The provisions of Public Resources Code 30800 et seq. and implementing regulations shall apply over other provisions of the Marin County Codes in the implementation of this chapter within the coastal zone of Marin County so covered.
(Ord. 2637 § 6 (part), 1981)

Chapter 22.57I

SPECIFIC REGULATIONS FOR VARIOUS COASTAL DISTRICTS

Sections:

22.57.010I Application of specific regulations.
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22.57.010I Application of specific regulations.

The following specific regulations of this chapter, in addition to the general regulations cited in Chapter 22.56I, shall apply to all coastal districts except as

specifically exempted herein.
(Ord. 2637 § 6 (part), 1981)

22.57.020I C-ARP--Coastal agricultural, residential, planned districts.

22.57.021I Purpose. This zone provides flexibility in lot size and building locations and thereby promotes the concentration of residential and accessory uses to maintain the maximum amount of land available for agricultural use and to maintain the visual, natural resource and wildlife habitat values of the property and surrounding areas.

22.57.022I Principal Permitted Uses. The following uses are permitted in all C-ARP districts subject to an approved master plan:

1. Dairying;
2. Grazing or breeding of cattle or sheep;
3. Raising or keeping of poultry, fowl (including game birds), rabbits or goats or similar animals;
4. Fish hatcheries and rearing ponds; oyster farming; mariculture;
5. Crop, vine or tree farm, truck garden, greenhouse, horticulture;
6. Farm and ranch buildings including dwelling, stables, barns, pens, corrals, or coops; structures for killing, dressing, packing or handling products raised on the premises, but not including an abattoir for cattle, sheep or hogs; dwellings shall be incidental to the agricultural use of the land for the residence of the owner or lessee of the land and the family of the owner or lessee, or for their employees engaged in the agricultural use of the land; agricultural use of the land means agriculture as the primary or principal use of the land as demonstrated by the applicant to the satisfaction of the planning director. The total number of dwellings shall not exceed the density permitted in the district;
7. Single-family dwellings;
8. Grazing, breeding or training of horses; horse stables, including riding academies and boarding facilities incidental to these uses;
9. The maintenance of land in its natural state for the purpose of preserving land for recreation, or for plant, animal or mineral preserves;
10. Horseback riding or hiking trails;
11. Public or private hunting of wildlife or fishing;

12. Erection, construction, alteration or maintenance of gas, electric, water, communication or flood control facilities as approved by the appropriate governmental agencies;
13. Bed and breakfast operations as defined in Section 22.02.103I, for such operations which offer or provide not more than three guest rooms.

22.57.023I Conditional Uses. The following uses are permitted in all coastal agricultural districts, subject to the securing of a use permit in each case:

1. Hog ranch;
2. Aircraft landing strip;*
3. Facilities for processing or retail sale of agricultural products;
4. Commercial storage and sale of garden supply products;
5. Animal hospitals and dog kennels;
6. Mining and quarrying and production operations and facilities related thereto;*
7. Timber harvesting in accordance with the regulations of Title 23 of this Code;
8. Rifle or pistol practice range, trap or skeet field, archery range or other similar use;
9. Rodeo arena and related facilities;*
10. Institutional uses and the facilities necessary therefor, related to educational, scientific, recreational or religious purposes;*
11. Mobile homes not on permanent foundations, so long as they are used exclusively for employees of the owner who are actively and directly engaged in the agricultural use of the land;
12. Storage and sale of building materials;*
13. Dump;*
14. Junkyard;*
15. Public and private hunting fishing club facilities;*
16. Bed and breakfast operations as defined in Section 22.02.103I, which

provide four but not more than five guest rooms.

*These uses shall be subject to specific development standards to be adopted prior to issuance of use permit.

22.57.024I Design Standards. The following requirements for project design, site preparation and use shall be imposed through the master plan, development plan and/or design review process, as necessary, to implement the goals and policies of the LCP, the Marin Countywide Plan and any applicable community plan:

1. Project Design.
 - a. Clustering. Buildings shall be clustered or sited in the most accessible, least visually prominent and most geologically stable portion or portions of the site. Clustering or siting buildings in the least visually prominent portion or portions of the site is especially important on open grassy hillsides. In these areas, the prominence of construction shall be minimized by placing buildings so that they will be screened by existing vegetation, rock outcroppings or depressions in topography. In areas with wooded hillsides, a greater scattering of buildings may be preferable to save trees and minimize visual impacts. In areas where usable agricultural land exists, residential development shall be clustered or sited so as to minimize disruption of existing or possible future agricultural uses.
 - b. Ridgelines. There shall be no construction permitted on top of, within three hundred feet horizontally, or within one hundred feet vertically of visually prominent ridgelines, whichever is more restrictive, if other suitable locations are available on the site. If structures must be placed within this restricted area because of site size or similar constraints, they shall be on locations that are least visible from nearby highways and developed areas.
 - c. Geologic Hazards. Development shall not be permitted on identified seismic or geologic hazard areas, such as slides, natural springs, identified fault zones, or bay mud, without approval from the department of public works, based on acceptable soils and geologic reports.
 - d. Roads, Driveways and Utilities. The development of roads, driveways and utilities shall conform to the applicable standards contained in Title 24 of this Code, including, but not limited to, Sections 24.04.020 through 24.04.320 (Roads and Driveways), and Sections 24.04.840 through 24.04.860 (Utilities). In areas with undeveloped agricultural land, efforts shall be made to keep road and driveway construction, grading and utility extensions to a minimum. This shall be accomplished through clustering and siting

development so as to minimize roadway length and maximize the amount of undivided agricultural land.

- e. Fire Protection. In rural areas (areas without water systems), on-site water storage capacity may be required for each single-family residence, subject to the requirements of the Marin County Fire Department. In planned or cluster developments provisions should be made, where feasible, for common water storage facilities and distribution systems. Maintenance of these water storage facilities and distribution systems should be performed according to a plan approved by the Marin County Fire Department.
- f. Landscaping. Landscaping shall minimally disturb natural areas. Fire protection, solar access; the use of indigenous species and minimal water use shall be considered in landscaping plans.
- g. Building Location/Design. In addition to the above requirements, buildings to be located on existing or proposed subdivision lots shall be sited and designed according to the following principles:
 - A. Energy Conservation. Solar access shall be considered in the location, design, height and setbacks of all buildings. Generally, buildings should be oriented in a north/south fashion with the majority of glazing on the south wall or walls of the buildings.
 - B. Building Height. No part of a residential building shall exceed twenty-five feet in height above natural grade, and no accessory structure, including water tanks, shall exceed fifteen feet in height above natural grade. In residential structures, the lowest floor level shall not exceed ten feet above natural grade at any point. Where a ridge lot is too flat to allow placement of the house down from the ridge as required in subsection 1.b., a height limit of one story or a maximum of eighteen feet, as measured from natural grade to the top of the roof, shall be imposed. These requirements may be waived by the planning director upon presentation of evidence that a deviation from these standards will not violate the intent of Section 22.47.101 and environmental quality policies of the countywide plan. Farm and agricultural buildings located down from ridgetops may exceed these height limits upon design review approval.
 - C. Access. Driveways shall be developed in accordance with the applicable standards contained in Title 24 of this Code, including, but not limited to Sections 24.04.240 through 24.04.320. Consistent with the clustering policies in

subsection I.a. above, efforts shall be made to keep driveway length to a minimum.

- D. Materials and Colors. Fire protection, energy conservation and the use of traditional agricultural building materials and colors shall be considered in all construction.
- h. Facilities. Where possible, facilities and design features required by the countywide plan shall be provided through the master plan/development plan process. These include use of reclaimed wastewater; use of materials, siting, and construction techniques to minimize consumption of resources such as energy and water; use of water-conserving appliances; appropriate recreation facilities; bus shelters; design features to accommodate persons with disabilities; bicycle paths and equestrian trails linked to city-county system; and facilities for composting and recycling.
- i. Agricultural and Open Space Uses. Agricultural uses shall be encouraged in ARP zones. As part of the development review process, usable agricultural land should be identified and efforts made to preserve and/or promote its use. Agricultural land, not presently in use, may be preserved as undeveloped private open space to be made available, on a lease basis, in the future, for compatible agricultural uses. The primary intent shall be to preserve open lands for agricultural use, not to provide open space/recreational land uses which will interfere or be in conflict with agricultural operations. Lands to be preserved for agriculture and/or open space use may require the creation of a homeowner's association or other organization for their maintenance. The nature and intensity of large scale agricultural uses should be described in the form of an agricultural management plan.

Management plans should consider intensity of grazing, runoff protection, chemical and fertilizer use and, in order to preserve agricultural land practices, separation from existing or proposed residential uses. In some cases, the county may require reasonable public access across those lands remaining in private ownership. Such pedestrian and/or equestrian access shall be provided where consistent with adopted county and coastal plans and where liability issues have been resolved. Public access for pedestrian and/or equestrian purposes shall only be required as a condition of plan approval.

- j. Open Space Dedication and Maintenance. Nonagricultural land to be preserved as open space may be dedicated by fee title to the County of Marin. The County of Marin or other designated public jurisdiction will maintain all open space lands accepted in fee title.
2. Site Preparation. Where appropriate, site preparation plans shall be

referred to the North Marin Water District and/or Marin Municipal Water District for review and comment.

- a. Grading. Grading shall be held to a minimum. Every reasonable effort shall be made to retain the natural features of the land, skylines and ridgetops, rolling land forms, knolls, native vegetation, trees, rock out-croppings and watercourses. Where grading is required, it shall be done in such a manner as to eliminate flat planes and sharp angles of intersection with natural terrain. Slopes shall be rounded and contoured to blend with existing topography. All grading shall conform to the applicable standards contained in Chapter 22.56I and Title 24 of this Code.
- b. Erosion Control. Grading plans shall include erosion control and revegetation programs. Where erosion potential exists, silt traps or other engineering solutions may be required. The timing of grading and construction shall be controlled by the department of public works to avoid failure during construction.
- c. Drainage. The areas adjacent to creeks shall be kept as much as possible in their natural state. All construction shall assure drainage into the natural watershed in a manner that will avoid significant erosion or damage to adjacent properties. To reduce runoff, impervious surfaces shall be minimized. At major creek crossings, bridges should be utilized, whenever possible, in place of culverts.
- d. Trees and Vegetation. In all instances, every effort shall be made to avoid removal, changes or construction which would cause the death of trees or rare plant communities and wildlife habitats.

(Ord. No. 3522, § XI, 2009)

22.57.025I Density. The ordinance adopting any C-ARP district shall specify the number of acres per dwelling unit, which will be allowed within the C-ARP district.

22.57.026I Submission Requirements. Applicant shall submit:

1. Requirements contained in Chapters 22.45 and 22.56I except that, all or a portion of the general submission requirements for master plan and development plan approval (Chapter 22.45) may be waived by the planning director. If these requirements are waived, a proposal shall be submitted which meets the requirements of Chapter 22.82I (Design Review).

(Ord. 2884 § 4 (1, 2), 1985; Ord. 2637 § 6 (part), 1981)

22.57.030I C-APZ--Coastal agricultural production zone districts.

22.57.031I Purpose. The purpose of the agricultural production zone is to preserve lands within the zone for agricultural use. The principal use of lands in the C-APZ districts shall be agricultural. Development shall be accessory, incidental, or in support of agricultural land uses, and shall conform to the policies and standards as set forth in this chapter.

22.57.032I Principal Permitted Uses. The following uses are permitted in all C-APZ districts subject to an approved master plan:

1. Agricultural Uses. For the purposes of the coastal agricultural production zone, agricultural uses are defined as uses of land to grow and/or produce agricultural commodities for commercial purposes, including:
 - a. Livestock and poultry: Cattle, sheep, poultry, goats, rabbits, horses unless they are the primary animals raised;
 - b. Livestock and poultry products: Milk, wool, eggs;
 - c. Field, fruit, nut and vegetable crops: Hay, grain, silage, pasture, fruits, nuts and vegetables;
 - d. Nursery products: Nursery crops, cut plants.
2. One single-family dwelling per parcel. Parcel is defined as all contiguous assessor's parcels under common ownership (unless legally divided as per Title 20, Marin County Code).
3. Accessory structures or uses appurtenant and necessary to the operation of agricultural uses, other than dwelling units of any kind; but, including barns, fences, stables, corrals, coops and pens and utility facilities.
4. Bed and breakfast operations as defined in Section 22.02.103I, for such operations which offer or provide not more than three guest rooms.

22.57.033I Conditional Uses. The following uses are permitted in all coastal agricultural production zone districts, subject to the securing of a use permit in each case. When it is determined by the planning director that any of the following uses constitute a major land use change, a master plan submitted in accordance with Chapter 22.45 may be required:

1. Farmworker housing;
2. Mobile homes which are used exclusively for employees of the owner who are actively and directly engaged in the agricultural use of the land;
3. Hog ranch;

4. Veterinary facilities;
5. Fish hatcheries and rearing ponds;
6. Stabling of more than five horses on ranches where horses are the primary or only animals raised;
7. Raising of other food and fiber producing animals not listed under Subsection 22.57.032I(1);
8. Planting, raising or harvesting of trees for timber, fuel or Christmas tree production;
9. Facilities for processing or retail sale of agricultural products;
10. Greenhouses;
11. Commercial storage and sale of garden supply products;
12. Water conservation dams and ponds;
13. Mineral resource production;
14. Game or nature preserve or refuge;
15. Public or private recreational activities, such as hunting, fishing and camping;
16. Bed and breakfast operations as defined in Section 22.02.103I, which provide four but not more than five guest rooms;
17. Construction or alteration of gas, electric, water, communication or flood control facilities, unrelated to an agricultural use, as approved by the appropriate governmental agencies;
18. Dump.

22.57.034I Density. The ordinance adopting a C-APZ district shall specify the minimum number of acres per dwelling unit which will be required within the C-APZ district. The C-APZ district shall have a maximum density of one unit per sixty acres; actual density shall be determined through the master plan process.

22.57.035I Development Standards and Requirements. All development permits in the C-APZ district shall be subject to the following standards and requirements:

1. All development shall be clustered to retain the maximum amount of land in agricultural production or available for agricultural use. Development,

including all land converted from agricultural use such as roads and residential support facilities, shall be clustered on no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage to be left in agricultural production and/or open space. Development shall be located close to existing roads and shall be sited to minimize impacts on scenic resources, wildlife habitat and streams and adjacent agricultural operations.

2. Permanent conservation easements over that portion of the property not used for physical development or services shall be required to promote the long-term preservation of these lands. Only agricultural uses shall be allowed under the easements. In addition, the county shall require the execution of a covenant not to divide the parcels created under this division so that they are retained as a single unit and are not further subdivided.
3. The creation of a homeowner's or other organization and/or the submission of the agricultural management plans may be required to provide for the proper utilization of agricultural lands and their availability on a lease basis or for the maintenance of community roads or mutual water systems.
4. Design standards as set forth in Section 22.57.024I.

22.57.036I Required Findings. Review and approval of development permits including a determination of density shall be subject to the following findings:

1. The development will protect and enhance continued agricultural use and contribute to agricultural viability.
2. The development is necessary because agricultural use of the property is no longer feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.
3. The land division of development will not conflict with the continuation or initiation of agriculture, on that portion of the property which is not proposed for development, on adjacent parcels, or those within one mile of the perimeter of the proposed development.
4. Adequate water supply, sewage disposal, road access and capacity and other public services are available to service the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream habitats or significantly reduce freshwater inflows to Tomales Bay, either individually or cumulatively.

5. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development.
6. The proposed land division and/or development will have no significant adverse impacts on environmental quality or natural habitats, including stream or riparian habitats and scenic resources. In all cases, LCP policies on streams and natural resources shall be met.

22.56.037I Transfer of Development Rights (TDR) in C-APZ Districts.

Notwithstanding provisions of this and other sections regarding density, the number of units permitted on one property (the donor property) may be transferred and built on another (receiving) property (either contiguous or noncontiguous), resulting in a higher density than that which the (receiving) property is zoned for, under certain circumstances, as described in this section. This process, which allows development rights from one property to be determined and transferred to a second property, is called transfer of development rights (TDR).

1. Purpose. The purpose of TDR is to relocate potential development from areas where environmental or land use impacts could be severe to other areas where those impacts can be minimized, while still granting appropriate development rights to each property.
2. Application. The participation of a property owner in TDR shall be on a voluntary basis and shall be subject to approval by the county through the master plan process. The property for which TDR is proposed must be located within a community plan, countywide plan or local coastal plan area and the adopted community plan, countywide plan or local coastal plan policy must recommend TDR as an appropriate plan implementation. Through the master plan approval process, the applicant(s) must demonstrate that it is necessary to conserve the property from which density is being transferred, and that the property which receives this additional density can accommodate it. This demonstration shall be consistent with the criteria for evaluation of TDR proposals described in applicable community plans or countywide plan policies.
3. Submission Requirements. In addition to the information required for a master plan submission under Chapter 22.45, the following additional information shall be provided where TDR is being considered:
 - a. Affidavits of consent from all registered property owners of all property subject to the master plan. This shall include the property being conserved and the property being developed and receiving the transferred density rights;
 - b. A description of the property proposed for conservation outlining

how the subject property fulfills the TDR conservation criteria as set out in the appropriate community plan or countywide plan policies;

- c. A calculation of the number of units available to be transferred. The calculation shall be made as follows: The area of the parcel to be conserved divided by the number of acres per dwelling unit required by the zoning minus the existing number of dwellings. Any fraction of a unit, resulting from such a determination, of 0.90 or greater will be counted as a whole unit;
 - d. A description of the property proposed to receive the transferred density outlining the availability of support services and infrastructure necessary for development and how the subject property fulfills the TDR development criteria as set out in the appropriate community plan;
 - e. A description of the proposed conservation easement or restriction, as described and required in Subsection 22.57.035I(5).
4. Approval Process. The approval process for a master plan involving TDR shall require the same approval process as set forth in Subsection 22.45.050A.
 5. Conservation Easements or Restrictions. A condition of TDR between properties is that the property proposed for restricted development or conservation shall have conservation easements or restrictions recorded against it which reflect the conditions of approval of the master plan and which restrict the future development or division of the donor property in accordance with those conditions. Such conservation easements or restrictions must be recorded against the donor property prior to the recording of a parcel map or final map for the receiver property.
 6. Density bonuses shall be considered if the proposed TDR meets the criteria set forth in the appropriate community plan or LCP.
(Ord. 2909 § 2 (part), 1986; Ord. 2884 § 4 (3, 4), 1985; Ord. 2703 § 12, 1982)

22.57.040I C-R-A--Coastal residential, agricultural districts.

22.57.041I Purpose. The purpose of this district is to provide for residential use, combined with small scale agricultural activities, subject to specific development standards.

22.57.042I Principal Permitted Uses. The following uses are permitted in all C-R-A districts:

1. Single-family residence;

2. Small livestock farming; provided, that not to exceed one horse, or one cow, or one hog, or three sheep, or three goats, or other similar livestock may be kept for each twenty thousand square feet of area of the lot, to a maximum of three horses, or three cows, or three hogs, or six sheep, or six goats or other similar livestock maintained on any one lot;
3. Crops, horticulture, nurseries and greenhouses;
4. Accessory buildings;
5. Home occupations; and
6. Bed and breakfast operations as defined in Section 22.02.103I, for such operations which offer or provide not more than three guest rooms.

22.57.043I Conditional Uses. The following uses are permitted in all C-R-A districts, subject to securing a use permit in each case:

1. Public and private stables and riding academies;
2. Sale of agricultural products produced on the premises;
3. Public parks and playgrounds;
4. Buildings for the sale of agricultural and nursery products;
5. Schools, libraries, museums, churches, retreats, noncommercial tennis courts and day child-care centers for seven or more children;
6. Dog kennels;
7. Livestock farming exceeding three cows or three horses or three hogs or six sheep;
8. Bed and breakfast operations as defined in Section 22.02.103I, which provide four but not more than five guest rooms.

22.57.044I Design Standards. Building site area and width; building setbacks, height and floor area ratio shall comply with the standards listed in Section 22.57.200I, "Design standards table".

22.57.045I Exceptions. Any parcel of land with an area of less than seven thousand five hundred square feet, and/or with an average width of less than sixty feet, which was under one ownership on September 2, 1938, which owner thereof owned or has owned no adjoining land and provided that no succeeding owner has owned adjoining land, or which parcel is shown as a lot on any subdivision map or land division or parcel

map or record of survey which was recorded after approval of the map in the manner provided by law, may be used as a building site for one-family dwelling by the owner of such parcel of land or by his successor in interest, provided that all other regulations for the district, as prescribed in this title, shall be complied with; provided further, that in lieu of the foregoing building site area regulations in any C-R-A district, in which there are also applied the regulations of any B district under the provisions of this title, each one-family dwelling with its accessory buildings, hereafter erected, shall be located on a building site, in one ownership, having an area not less than specified for such B district. In no case, however, shall there be more than one dwelling on any one lot. (Ord. 2884 § 4 (5, 6), 1985; Ord. 2637 § 6 (part), 1981)

22.57.050I C-R-1--Coastal one-family residence district.

22.57.051I Purpose. The purpose of this district is to allow development of single-family detached units subject to specific development requirements.

22.57.052I Principal Permitted Uses. The following uses are permitted in all C-R-1 districts:

1. One-family dwelling;
2. Crops, tree and truck farming, nurseries and greenhouses;
3. Home occupations;
4. Accessory buildings;
5. Bed and breakfast operations as defined in Section 22.02.103I, for such operations which offer or provide not more than three guest rooms.

22.57.053I Conditional Uses. The following uses are permitted in all C-R-1 districts, subject to securing a use permit in each case:

1. Public parks and public playgrounds;
2. Salesrooms or other buildings for the sale of nursery or agricultural products;
3. Schools, libraries, museums, churches, retreats, noncommercial tennis courts and day child-care centers for seven or more children;
4. Bed and breakfast operations as defined in Section 22.02.103I, which provide four but not more than five guest rooms.

22.57.054I Design Standards. Building site area and width; building setbacks, height and floor area ratio shall comply with the standards listed in Section 27.57.200I, "Design standards table".

22.57.055I Exceptions. Any parcel of land with an area of less than seven thousand five hundred square feet, and/or with an average width of less than sixty feet, which was under one ownership on September 2, 1938, which owner thereof owned or has owned no adjoining land and provided that no succeeding owner has owned adjoining land, or which parcel is shown as a lot on any subdivision map or land division or parcel map or record of survey which was recorded after approval of the map in the manner provided by law, may be used as a building site for one-family dwelling by the owner of such parcel of land or by his successor in interest, provided that all other regulations for the district, as prescribed in this title, shall be complied with; provided further, that in lieu of the foregoing building site area regulations in any C-R-1 district, in which there are also applied the regulations of any B district under the provisions of this title, each one-family dwelling with its accessory buildings, hereafter erected, shall be located on a building site, in one ownership, having an area not less than specified for such B district. In no case, however, shall there be more than one dwelling on any one lot. (Ord. 2884 § 4 (17, 18), 1985: Ord. 2637 § 6 (part), 1981)

22.57.060I C-R-2--Coastal two-family residence districts.

22.57.061I Purpose. The purpose of this district is to allow development of two-family dwellings subject to specific development requirements.

22.57.062I Principal Permitted Uses. The following uses are permitted in all C-R-2 districts:

1. One-family dwelling;
2. Two-family dwelling;
3. Crops, tree and truck farming, nurseries and greenhouses;
4. Home occupations;
5. Accessory buildings;
6. Bed and breakfast operations as defined in Section 22.02.103I, for such operations which offer or provide not more than three guest rooms.

22.57.063I Conditional Uses. The following uses are permitted in all C-R-2 districts, subject to securing a use permit in each case:

1. Public parks and public playgrounds;
2. Salesrooms or other buildings for the sale of nursery or agricultural products;
3. Schools, libraries, museums, churches, retreats, noncommercial tennis

courts, and day child-care centers for seven or more children;

4. Bed and breakfast operations as defined in Section 22.02.103I, which provide four but not more than five guest rooms.

22.57.064I Design Standards. Building site area and width; building setbacks, height and floor area ratio shall comply with the standards listed in Section 22.57.200I, "Design standards table".

22.57.065I Exceptions. A one-family dwelling may be built on any parcel of land with an area of less than seven thousand five hundred square feet, and/or with an average width of less than sixty feet, which was under one ownership on September 2, 1938, which owner thereof owned or has owned no adjoining land and provided that no succeeding owner has owned adjoining land, or which parcel is shown as a lot on any subdivision map or land division or parcel map or record of survey which was recorded after approval of the map in the manner provided by law, may be used as a building site for one-family dwelling by the owner of such parcel of land or by his successor in interest provided that all other regulations for the district, as prescribed in this title, shall be complied with; provided further, that in lieu of the foregoing building site area regulations in any C-R-2 district, in which there are also applied the regulations of any B district under the provisions of this title, each one-family dwelling with its accessory buildings, hereafter erected, shall be located on a building site, in one ownership, having an area not less than specified for such B district. In no case, however, shall a two-family dwelling be built on any parcel of land with an area of less than seven thousand five hundred square feet, and/or with an average width of less than sixty feet. (Ord. 2884 § 4 (7, 8), 1985; Ord. 2637 § 6 (part), 1981)

22.57.070I C-RMP--Coastal residential multiple planned district.

22.57.071I Purpose. The purpose of this district is to allow varied types of residential development, designed according to the policies set forth in the local coastal plan, but without the confines of specific yard requirements.

22.57.072I Principal Permitted Uses. The following uses are permitted in all C-RMP districts, subject to master plan approval:

1. One-family, two-family and multiple dwellings;
2. Crops, tree and truck farming, nurseries and greenhouses; but, not including any sales rooms or other buildings for the sale of any product;
3. Home occupations;
4. Public parks and public playgrounds;
5. Accessory buildings and accessory uses;

6. Bed and breakfast operations as defined in Section 22.02.103I, for such operations which offer or provide not more than three guest rooms.

22.57.073I Conditional Uses. The following uses are permitted in all C-RMP districts, subject to securing a use permit in each case. When it is determined by the planning director that any of the following uses constitute a major land use change, a master plan submitted in accordance with Chapter 22.45 may be required:

1. Schools, libraries, churches, museums, tennis courts and similar noncommercial recreational uses;
2. Day child-care centers for seven or more children;
3. Salesrooms or other buildings for the sale of nursery or agricultural products;
4. Horses, donkeys, mules and ponies shall be permitted subject to provisions of Chapter 22.68I;
5. Bed and breakfast operations as defined in Section 22.02.103I, which provide four but not more than five guest rooms.

22.57.074I Density. The ordinance adopting any C-RMP district shall specify the maximum number of dwelling units per gross acre which will be allowed within the C-RMP district.

In determining the number of dwelling units allowed on a parcel, any fraction of a unit, resulting from such determination, of 0.90 or greater will be counted as a whole unit.

The density thus computed shall in fact be the upper limit. The applicant must demonstrate how many units can be developed on the site consistent with the findings from the environmental reconnaissance or environmental impact report and/or the design requirements contained herein.

22.57.075I Design Standards. Requirements for design, site preparation and use of the project shall be imposed as necessary to implement the goals and policies of the local coastal plan, the Marin Countywide Plan and any applicable community plan, in accordance with Section 22.57.086I.

22.57.076I Submission Requirements. Applications shall contain all the elements or requirements of Chapters 22.45 and 22.56I. All or a portion of the general submission requirements for master plan and/or development plan review and approval (Chapter 22.45) may be waived by the planning director. If master plan requirements are waived, a proposal shall be submitted which meets the requirements of Chapter 22.82I (Design Review).

(Ord. 2884 § 4 (9, 10), 1985; Ord. 2703 § 13, 1982)

22.57.080I C-RSP--Coastal residential single-family planned districts.

22.57.081I Purpose. The purpose of this district is to allow development of single-family detached units to be designed according to the policies set forth in the local coastal plan and without the confines of specific yard requirements, in order to allow the greatest possible compatibility with the characteristics of the site.

22.57.082I Principal Permitted Uses. The following uses are permitted in all C-RSP districts, subject to master plan approval:

1. One-family dwelling;
2. Crops, tree and truck farming, nurseries and greenhouses;
3. Home occupations;
4. Accessory buildings;
5. Nature reserves;
6. Bed and breakfast operations as defined in Section 22.02.103I, for such operations which offer or provide not more than three guest rooms.

22.57.083I Conditional Uses. The following uses are permitted in all C-RSP districts, subject to securing a use permit in each case:

1. Public parks and public playgrounds;
2. Salesrooms or other buildings for the sale of nursery and agricultural products;
3. Schools, libraries, museums, churches, retreats, noncommercial tennis courts and day child-care centers for seven or more children;
4. Horses, donkeys, mules and ponies shall be permitted subject to provisions of Section 22.68.040I. The grazing of livestock shall not be permitted in areas where it is likely to cause damaging soil erosion or water pollution;
5. "Bed and breakfast" operations as defined in Section 22.02.103I; provided, however, that prior to the establishment of such a use which provides four but not more than five guest rooms, a use permit shall first be secured.

22.57.084I Density. The ordinance adopting a C-RSP district shall specify the maximum number of dwelling units per gross acre which will be allowed within the C-RSP district.

22.57.085I Submission Requirements. Applicant shall submit:

1. Requirements contained in Chapters 22.45 and 22.56I; except that all or a portion of the general submission requirements for master plan and development plan approval (Chapter 22.45) may be waived by the planning director. If these requirements are waived a proposal shall be submitted which meets the requirements of Chapter 22.82I (Design Review).

22.57.086I Site Preparation and Project Design. The following requirements for site preparation, design and use of the project shall be imposed through the master plan, development plan and/or design review process, as necessary, to implement the goals and policies of the LCP, the Marin Countywide Plan and any applicable community plan:

1. Site Preparation.
 - a. Grading. All grading shall be reviewed by the environmental protection committee or by staff members designated by the committee. Grading shall be held to a minimum. Every reasonable effort shall be made to retain the natural features of the land: Skylines and ridgetops, rolling land forms, knolls, native vegetation, trees, rock outcroppings, watercourses. Where grading is required, it shall be done in such a manner as to eliminate flat planes and sharp angles of intersection with natural terrain. Slopes shall be rounded and contoured to blend with existing topography.
 - b. Roads. No new roads shall be developed where the required grade is more than fifteen percent unless convincing evidence is presented that such roads can be built without environmental damage and used without public inconvenience.
 - c. Erosion Control. Grading plans shall include erosion control and revegetation programs. Where erosion potential exists, silt traps or other engineering solutions may be required. The timing of grading and construction shall be controlled by the department of public works to avoid failure during construction. No grading shall be done during the rainy season, from November through March.
 - d. Drainage. The areas adjacent to creeks shall be kept as much as possible in their natural state. All construction shall assure drainage into the natural watershed in a manner that will avoid significant erosion or damage to adjacent properties. Impervious surfaces shall be minimized.
 - e. Trees and Vegetation. In all instances, every effort shall be made to avoid removal, changes or construction which would cause the death of the trees or rare plant communities and wildlife habitats.

- f. Fire Hazards. Development shall be permitted in areas of extreme wildfire hazard only where there are good access roads, adequate water supply, a reliable fire warning system and fire protection service. Setbacks to allow for firebreaks shall be provided if necessary.
 - g. Geologic Hazards. Construction shall not be permitted on identified seismic or geologic hazard areas such as on slides, on natural springs, on identified fault zones, or on bay mud without approval from the department of public works, based on acceptable soils and geologic reports.
 - h. Watershed Areas. All projects within water district watershed areas shall be referred to that district for review and comment.
2. Project Design.
- a. Clustering. Generally, buildings should be clustered or sited in the most accessible, least visually prominent and most geologically stable portion or portions of the site, consistent with the need for privacy to minimize visual and aural intrusion into each unit's indoor and outdoor living area from other living areas. Clustering is especially important on open grassy hillsides. A greater scattering of buildings may be preferable on wooded hillsides to save trees. The prominence of construction can be minimized by such devices as placing buildings so that they will be screened by wooded areas, rock outcroppings and depressions in the topography.
 - b. Ridgelines. There shall be no construction permitted on top or within three hundred feet horizontally, or within one hundred feet vertically of visually prominent ridgelines, whichever is more restrictive, if other suitable locations are available on the site. If structures must be placed within this restricted area because of site size or similar constraints, they shall be on locations that are least visible from nearby highways and developed areas.
 - c. Landscaping. Landscaping shall minimally disturb natural areas, including open areas and additional landscaping in a natural or seminatural area shall be compatible with the native plant setting. Fire protection and minimal water use shall be considered in landscaping plans. Planting shall not block views from adjacent properties or disturb wildlife trails.
 - d. Utilities. In the ridge land areas designated by the countywide plan, roads shall be designed to rural standards. (Generally, not more

than eighteen feet pavement width, depending on safety requirements. A minimum of sixteen feet may be permitted in certain very low use areas, as provided in the improvement standards established pursuant to this Code, Chapter 24.04I.) In ridge land areas, street lights shall be of low level intensity and low in profile. In all areas, power and telephone lines shall be underground where feasible.

- e. **Building Height.** No part of a building shall exceed twenty-five feet in height above natural grade, and no accessory building shall exceed fifteen feet in height above natural grade. The lowest floor level shall not exceed ten feet above natural grade at the lowest corner. Where a ridge lot is too flat to allow placement of the house down from the ridge, a height limit of one story or a maximum of eighteen feet to the top of the roof shall be imposed. These requirements may be waived by the planning director upon presentation of evidence that a deviation from these standards will not violate the intent of Sections 22.47.020 and 22.47.030.
- f. **Materials and colors** shall blend into the natural environment unobtrusively, to the greatest extent possible.
- g. **Noise impacts** on residents and persons in nearby areas shall be minimized through placement of buildings, recreation areas, roads and landscaping.
- h. **Facilities.** Where possible, facilities and design features called for in the countywide plan shall be provided on the site. These include units with three or more bedrooms, available to households with children; child-care facilities; use of reclaimed wastewater; use of materials; siting and construction techniques to minimize consumption of resources such as energy and water; use of water-conserving appliances; recreation facilities geared to age groups anticipated in the project; bus shelters; design features to accommodate persons with disabilities; bicycle paths linked to city-county system; and facilities for composting and recycling.
- i. **Open Space Dedication.** Land to be preserved as open space may be dedicated by fee title to the County of Marin prior to issuance of any construction permit, or may remain in private ownership with appropriate scenic and/or open space easements in perpetuity and the county may require reasonable public access across those lands remaining in private ownership.
- j. **Open Space Maintenance.** The County of Marin or other designated public jurisdiction will maintain all open space lands accepted in fee title, as well as public access and trail easements

across private property. Where open space lands remain in private ownership with scenic easements, these lands shall be maintained in accordance with the adopted policies of the Marin County open space district and may require the creation of a homeowners' association or other organization for the maintenance of these private open space lands where appropriate.

- k. Open Space Uses. Uses in open space areas shall be in accordance with policies of the Marin County open space district. Generally, uses shall have no or minimal impact on the natural environment. Pedestrian and equestrian access shall be provided where possible and reasonable, and where liability issues have been resolved. The intent is to serve the people in adjacent communities without attracting large numbers of visitors from other areas.

(Ord. 2933 § 2 (2), 1987; Ord. 2884 § 4 (11, 12), 1985; Ord. 2637 § 6 (part), 1981)
(Ord. No. 3522, § XII, 2009)

22.57.090I C-RSPS--Coastal residential, single-family planned, Seadrift Subdivision districts.

22.57.091I Application. The following specific regulations shall apply in all C-RSPS districts in addition to the general regulations required under Sections 22.57.080I through 22.57.086I (C-RSP districts). Principal permitted uses in all C-RSPS districts shall be as allowed in Section 22.57.092I.

22.57.092I Principal Permitted Uses. The following uses are permitted in all C-RSPS districts, subject to master plan approval:

1. One-family dwellings;
2. Natural reserves;
3. Home occupations without external evidence of same;
4. Accessory buildings to the above uses;
5. Bed and breakfast operations as defined in Section 22.02.103I.

22.57.093I Ocean Setbacks. On those lots fronting the Pacific Ocean and south of Seadrift Road, no development shall be located seaward of the building setback line as shown on the map of Seadrift Subdivision Number One, RM, Bk 6, pg. 92 and Seadrift Subdivision Number Two, RM, Bk 9, pg. 62, and as described in the subdivision's covenants, conditions and restrictions in effect as of the date of the ordinance codified in this chapter.

22.57.094I Height Limit. Development on all lots in Seadrift shall be limited to a maximum height as follows:

1. In Lagoon Subdivisions one and two and Seadrift Subdivision three, finished floor elevation shall not exceed thirteen feet above mean lower low water. Total height of a structure shall not exceed twenty-eight feet above mean lower low water.
2. In Seadrift Subdivisions one and two finished floor elevation shall not exceed eighteen feet above mean lower low water. Total height of structure shall not exceed thirty-three feet above mean lower low water.

22.57.095I Lot Consolidation. Contiguous lots under the same ownership shall be consolidated to achieve the minimum parcel size of this zone district. Development proposals shall be accompanied by a title report identifying adjoining ownerships as of that date. Lot consolidation shall be accomplished via recordation of a parcel map or other technique acceptable to the planning director. Development shall not proceed until such lot consolidation is accomplished.

22.57.096I Specific Master Plan Areas. The following regulations shall apply only in Area 4 and Area 5 as depicted on map No. 1, as amended. Area 4 is further defined as lots 98 through 203 of the map of Seadrift Lagoon Subdivision No. 2, RM bk 11, pg. 51 and lots 95 through 97 of the map of Seadrift Lagoon Subdivision No. 1, RM bk 6, pg. 92.

1. Area 4: Based on the policies contained in the Unit 1 LCP, as amended, the development of the portion of Area 4 indicated herein shall occur as follows:
 - a. Nonbuilding sites: Lot 201 of Seadrift Lagoon Subdivision No. 2 shall be designated as a nonbuilding site;
 - b. Lots 167 through 175 of Seadrift Lagoon Subdivision No. 2 shall be consolidated as provided for in the Unit 1 LCP such that a maximum of seven building sites are realized;
 - c. Lots 95 through 97 of Seadrift Lagoon Subdivision No. 1 and lots 98 through 102 of Seadrift Lagoon Subdivision No. 2 shall be consolidated as provided for in the Unit 1 LCP such that a maximum of five lots are realized;
 - d. Lots 104 through 145 of Seadrift Lagoon Subdivision No. 2 shall be consolidated as provided for in the Unit 1 LCP such that a maximum of thirty-two building sites are realized;
 - e. Prior to the issuance of a coastal project permit for any of the lots described in a., b., c. or d. above, all of the relevant requirements of policy 36 of the Unit 1 LCP shall be complied with;

- f. All of the lots listed herein shall be subject to master plan approval pursuant to Chapter 22.45 of the Marin County Code. Any master plan approval shall provide for a mechanism whereby each of the lots shall be assessed an appropriate share of the cost of developing the proposed access over the old causeway.
2. Area 5: Proposals for development within this area shall be subject to master plan approval pursuant to Chapter 22.45. Any master plan approval shall cover the entire area and be subject to the following:
 - a. Development in Area 5 shall be limited to a maximum of seven new single-family detached dwellings. Development shall be clustered in the eastern portion of A.P. 195-090-27 and shall maintain a one-hundred-foot setback from the mean high tide line of the Bolinas Lagoon, or the edge of the wetland, consistent with septic guidelines and the protection of wildlife values. The location of development shall be consistent with Exhibit "A" of the "Memorandum of Understanding for the Settlement of Pending Litigation" executed by the County of Marin and Wiesenbaker/Kent Estate. The remainder of Area 5, excluding the "pier house" shall be encumbered with an open space and limited pedestrian easement in favor of the people of the State of California or other acceptable organization. The easement shall provide for open space, and educational and scientific uses of the land;
 - b. The development shall provide for future vehicle and pedestrian access over the general area of the old causeway as required by the Unit 1 LCP. The developers of Area 5 shall participate financially in the construction of the roadway and bridge;
 - c. All development in Area 5 shall be limited to one story in height, not to exceed eighteen feet above average finished grade;
 - d. Prior to the issuance of a coastal project permit for any portion of Area 5, all of the relevant requirements of policy 36 of the Unit 1 LCP shall be complied with;
 - e. All development in Area 5 shall be located as far as possible from the Bolinas Lagoon.

22.57.097I Public Access Requirements.

- A. For those ocean front parcels within the Seadrift Subdivision, coastal development project approval shall be conditioned upon an offer of an access easement per the standards listed below:

1. An offer to the County of Marin or other public agency on behalf of the public of a nonexclusive easement for access to and use of the beach. This easement shall include the beach area between the ocean and a line twenty-five feet seaward of the toe of the Seadrift sand dunes; provided, however, that the easement shall not extend any closer than one hundred feet to the rear of the building setback line on each ocean front lot. In addition to the above easement, the grant shall also include provision for a floating five-foot wide lateral access easement to be located landward of any wave run-up where such run-up extends further inland than the above easement. In no case, however, shall the five-foot floating easement extend inland beyond the rear building setback line or the toe of the dunes, whichever point is the furthest seaward.
2. Use of the easement area shall be limited to low-intensity recreational activities, such as strolling, sunbathing, birding, picnicking, fishing and general viewing. Use of easements shall only occur where liability issues have been resolved. Structures, camping, group sports, fires, private recreational vehicles, and horses shall be prohibited in the easement areas. Use of the five-foot lateral access easement as described above shall be limited to strolling and viewing purposes only.

- B. Landowners possessing an interest in Seadrift Road, including the right to preclude the public from using the roads, shall record an agreement allowing the public emergency egress during periods of high water or high tides when the beach is impassable. The county shall cause signing of such emergency egress along the Seadrift Spit, at the end of Walla Vista and the north end of the spit. In applications for new development along the beach fronting the subdivision, the county will ensure emergency vertical egress from the beach to Seadrift Road at the northwest end of the beach and other locations found appropriate.

(Ord. 2884 § 4 (13), 1985; Ord. 2824 § 1, 1984; Ord. 2823 § 1, 1984; Ord. 2703 § 14, 1982; Ord. 2637 § 6 (part), 1981)

22.57.100I C-CP--Coastal planned commercial district.

22.57.101I Purpose. The purpose of this district is to create and protect areas within the coastal zone for commercial and institutional uses and to central the density and development of such uses thereby assuring compatibility with the goals and policies of the local coastal plan.

22.57.102I Principal Permitted Uses. The following uses are permitted in all C-CP districts, subject to master plan approval:

1. All commercial and institutional uses as approved by an adopted master plan. In accordance with LCP policies, residential uses existing as of the

date of adoption of the ordinance codified in this chapter shall be allowed to be rebuilt if destroyed by natural disaster.

22.57.103I Design Standards. Requirements for design, site preparation and use of the project shall be imposed as necessary to implement the goals and policies of the local coastal plan, the Marin Countywide Plan and any applicable community plan.

22.57.104I Submission Requirements. Applications shall contain all the elements or requirements of Chapters 22.45 and 22.56I. All or a portion of the general submission requirements for master plan and/or development plan review and approval (Chapter 22.45) may be waived by the planning director. If master plan requirements are waived, a proposal shall be submitted which meets the requirements of Chapter 22.82I (Design Review).

22.57.105I Additional Findings. Establishment of self-service stations or conversion of existing full-service stations to self-service stations will require periodic review and additional findings that the establishment of a self-service station will not adversely affect public health, safety and welfare by either diminishing the availability of minor emergency help and safety services, including minor automobile repair and public restrooms or discriminating against individuals needing refueling assistance. (Ord. 2888 § 2, 1985; Ord. 2703 § 16, 1982)

22.57.110I C-H-1--Coastal limited roadside business districts.

22.57.111I Purpose. The purpose of this district is to allow the establishment of business oriented to serving the motoring public in both public and private transportation.

22.57.112I Principal Permitted Uses. The following uses are permitted in all C-H-1 districts:

1. Nonprofit museums;
2. Meeting halls;
3. Restaurants and refreshment stands with seating for thirty patrons or less;
4. Transit waiting shelters.

22.57.113I Conditional Uses. The following uses are permitted in all C-H-1 districts, subject to the securing of a use permit in each case:

1. One-family, two-family and multiple dwellings;
2. Service stations. Establishment of self-service stations will require a use permit subject to periodic review and additional findings that the establishment of a self-service station will not adversely affect public health, safety and welfare by either diminishing the availability of minor

emergency help and safety services, including minor automobile repair and public restrooms or discriminating against individuals needing or refueling assistance;

3. Public parks and public playgrounds;
4. Nurseries and greenhouses, including salesrooms or other buildings for the sale of any products;
5. Home occupations, provided that there shall be no external evidence of any home occupation except a sign as permitted by Chapter 22.69I;
6. Schools, libraries, museums, churches, retreats, noncommercial tennis courts and day child-care centers for seven or more children;
7. Lodges, fraternities and sorority houses;
8. Hospitals, rest homes, sanitariums, clinics;
9. Philanthropic and charitable institutions;
10. Hotels, motels;
11. Offices.
12. Restaurants with seating for more than thirty patrons;
13. Retail stores;
14. Bed and breakfast operations as defined in Section 22.02.103I.
15. Significant tobacco retailers.

22.57.114I Design Standards. Building site area and widths and maximum building height shall comply with the standards listed in Section 22.57.200I, "Design standards table". Building setbacks and floor area ratio shall be set through the design review/use permit process.

22.57.115I Exceptions. Any parcel of land with an area of less than seven thousand five hundred square feet, and/or with an average width of less than sixty feet, which was under one ownership on September 2, 1938, which owner thereof owned or has owned no adjoining land and provided that no succeeding owner has owned adjoining land, or which parcel is shown as a lot on any subdivision map or land division or parcel map or record of survey which was recorded after approval of the map in the manner provided by law, may be used as a building site by the owner of such parcel of land or by his successor in interest, provided that all other regulations for the district, as prescribed in this title, shall be complied with; provided further that in lieu of the foregoing building

site area regulations in any C-H-1 district, in which there are also applied the regulations of any B district under the provisions of this title, each one-family dwelling with its accessory buildings, hereafter erected, shall be located on a building site, in one ownership, having an area not less than specified for such B district. (Ord. 3340 Exh. A (part), 2002; Ord. 2888 § 2 (part), 1985; Ord. 2884 § 4 (14), 1985; Ord. 2637 § 6 (part), 1981)

22.57.120I C-VCR--Coastal village commercial residential districts.

22.67.121 Purpose. The purposes of the district created in this chapter are as follows:

1. Maintain the established character of village commercial areas;
2. Promote village commercial self-sufficiency;
3. Foster opportunities for village commercial growth, including those land uses that serve coastal visitors;
4. Maintain a balance between resident and nonresident commercial uses;
5. Protect, without undue controls, established residential, commercial, light industrial use;
6. Maintain community scale.

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;
2. Stores, shops and businesses, for the following purposes: Barbershops, beauty shops, hardwares, laundries, dry cleaning, groceries, liquor, men's, women's and children's clothing and furnishings, shoe stores, professional offices, banks, off-street parking facilities, coffee shops and restaurants that do not accommodate more than forty patrons, and/or serve alcoholic beverages;
3. Transit waiting shelters;
4. Home occupations;
5. Accessory uses and buildings including parking facilities; and

6. Bed and breakfast operations as defined in Section 22.02.103I, for such operations which offer or provide not more than three guest rooms.

22.57.123I Conditional Uses. The following uses are permitted in all C-VCR districts, subject to the securing of a use permit in each case:

1. Two-family and multiple dwellings*;
2. Crop and tree farming, truck gardening, nurseries and greenhouses;
3. Public parks and playgrounds;
4. Automobile service stations. Establishment of self-service stations or conversion of existing full-service stations to self-service stations will require a use permit subject to periodic review and additional findings that the establishment of a self-service station will not adversely affect public health, safety and welfare by either diminishing the availability of minor emergency help and safety services, including minor automobile repair and public restrooms or discriminating against individuals needing refueling assistance;
5. Bars and taverns;
6. Building material sales and storage, cabinet and furniture manufacture and repair, boat manufacturing, draying or truck terminals and storage facilities, warehousing;
7. Commercial off-street parking facilities;
8. Drive-in restaurants and take-out food establishments;
9. Hotels and motels;
10. Meeting halls, theaters and similar places of public assembly;
11. Public utility uses, including electric substations, major transmission lines, telephone exchanges, transit terminals*;
12. Restaurants accommodating more than forty patrons and/or which serve alcoholic beverages and/or provide live entertainment;
13. Sales, service and repair of new and used vehicles, excluding junkyards and vehicle dismantlers;
14. Schools, libraries, churches, child and day care centers for thirteen or more children, museums;

15. Stores and shops for the conduct of the following uses: gift and curio shops, art galleries, handcrafts, antique sales;
16. Veterinary hospitals and pet clinics;
17. Bed and breakfast operations as defined in Section 22.02.103I, which provide four but not more than five guest rooms.

*These uses shall be subject to specific development standards to be adopted prior to issuance of use permit.

22.57.124I Design Standards. Building site area and width; building setbacks, height and floor area ratio shall comply with the standards listed in Section 22.57.200I, "Design standards table".

22.57.125I Performance Standards. All uses, whether permitted or authorized by use permit, shall conform to the following performance standards:

1. All uses, except outdoor dining areas, agricultural uses, parks and playgrounds, new and used car sales, shall be conducted entirely within buildings or be enclosed by solid screen fences.
2. No use shall produce or create any external evidence of interior operations such as dust, odor, noise or vibration except for signs and advertising displays authorized by Section 22.69.030I.
3. All new uses and structures shall be subject to design review, as provided by Chapter 22.82I.

22.57.126I.126 Bulk and Open Space Requirements. Bulk and open space requirements shall be individually determined through design review procedures for any proposed new developments or improvements, alterations or additions to existing improvements; provided, however, that the minimum parcel area for any new residential parcel to be created within any VCR district shall not be less than seven thousand five hundred square feet, and the minimum density for any proposed new residential development within any VCR district shall not be less than one dwelling unit per each two thousand square feet of parcel area.

22.57.127I Off-street Parking Required. All new structures shall provide off-street parking pursuant to the provisions of Chapter 22.74I. Required off-street parking may be screened and/or landscaped. The amount of area devoted to landscaping may include the open space required by Section 22.31.070. If practical difficulties are encountered in providing off-street parking on the same site upon which the use is located, or where design factors would be improved by elimination of on-site parking, alternate off-site parking facilities may be allowed by a use permit. Joint use of common parking facilities, which serve uses which do not have overlapping hours of operation, may be authorized

by a use permit if the minimum amount of such off-street parking is equal to the amount required for the largest use.

22.57.128I Signs and Advertising. The provisions set forth in Chapter 22.69I shall govern all uses within VCR districts.

22.57.129I Nonconforming Uses. All uses which were lawfully established prior to the application of this district shall be conforming uses to the extent they existed at the time of application of these regulations; provided, however, that the expansion or enlargement of such preexisting uses and/or the establishment and/or construction of any new structures and uses subsequent to the application of these regulations shall conform to this chapter.
(Ord. 2888 § 2 (part), 1985; Ord. 2884 § 4 (15, 16), 1985; Ord. 2797 §§ 1, 2, 1983; Ord. 2637 § 6 (part), 1981)

22.57.130I C-OA--Coastal open area districts.

22.57.131I Purpose. It is the purpose of the C-OA district to provide for open space, outdoor recreation, and other undeveloped lands, including but not limited to areas particularly suited for park and recreational purposes, including access to beaches, natural drainage channels, and areas which serve as links between major recreation and open space reservations.

22.57.132I Principal Permitted Uses. The following uses are permitted in all C-OA districts:

1. Public parks, playgrounds and recreational areas;
2. Truck farming, gardening and animal grazing;
3. Forest preserves, wildlife reserves, equestrian and hiking areas; and
4. On fifty acres or more, the conducting of a dairy operation.

22.57.133I Conditional Uses. The following uses are permitted in all C-OA districts, subject to the securing of a use permit in each case:

1. Golf courses and country clubs*;
2. The following uses, upon securing of a use permit in each case, which use permit application shall include a site plan showing all proposed buildings, uses and improvements and which use permit if granted shall prescribe conditions as are necessary to assure the prevention of hazards to life and property, to preserve and promote agriculture enterprise, to preserve scenic beauty, to preserve historic interest, to maintain such land in a permanent open state will be satisfied*;

Public or private schools, public or civic buildings private recreational uses, necessary residential accommodations for teachers or custodial staff, residences clearly accessory to the primary use of property for agricultural purposes, stables and riding academies, commercial or noncommercial marinas and appurtenant waterfront uses, public utility or public service uses, and such uses as are within the purposes and powers authorized the local agency by the enabling legislation establishing the agency; provided, however, that no use permit shall be required for gas, water, electrical and communications transmission and distribution facilities located below ground level.

*These uses shall be subject to specific development standards to be adopted prior to issuance of use permit.

22.57.134I Uses Prohibited. All uses of land unless set forth in Sections 22.57.132I and 22.57.133I are specifically prohibited, as are also the following uses: Commercial wood cutting or logging, removal of topsoil or excavation or filling to any extent whatsoever except as such excavation or filling is approved by the county upon the finding that same is necessary in the pursuit of a permitted use within the district.

22.57.135I Building Approval. No building shall be constructed, moved or reconstructed unless and until the location, architectural appearance and character, height and bulk of same has been approved by the county as provided in Chapter 22.82I. (Ord. 2637 § 6 (part), 1981)

22.57.140I C-RMPC--Coastal residential multiple planned commercial district.

22.57.141I Purpose. The purpose of this district is to create and protect areas within the coastal zone suitable for a mixture of residential and commercial uses and to control the density and development of such uses thereby assuring compatibility with the goals and policies of the local coastal plan.

22.57.142I Principal Permitted Uses. All uses permitted in the C-RMP and C-CP districts when approved by master plan.

22.57.143I Density. The ordinance adopting a C-RMPC district may specify the maximum number of dwelling units per gross acre which will be allowed within the C-RMPC district.

22.57.144I Design Standards. Requirements for design, site preparation and use of the project shall be in accordance with the design standards for the C-RMP and the C-CP districts.

22.57.145I Submission Requirements. Applications shall contain all the elements or requirements of Chapters 22.45 and 22.56I. All or a portion of the general submission requirements for master plan and/or development plan review and approval (Chapter 22.45) may be waived by the planning director. If master plan requirements are waived, a proposal shall be submitted which meets the requirements of Chapter 22.82I (Design Review).

(Ord. 2703 § 17, 1982)

22.57.150I C-RCR--Coastal resort and commercial recreation district.

22.57.151I Purpose. The purpose of this district is to create and protect areas within the coastal zone for resort and visitor serving facilities. Emphasis is placed on public access to recreation areas within and adjacent to proposed development.

22.57.152I Principal permitted uses. The following uses are permitted in all C-RCR districts, subject to master plan approval:

1. All uses and normal accessory uses which the planning commission finds are appropriate for a resort area or which are desirable or necessary for public service, utility service or for the servicing of the recreation industry. Approval of self-service stations or conversion of existing full-service stations to self-service stations as part of a resort area master plan will require periodic review and additional findings that the establishment of a self-service station will not adversely affect public health, safety and welfare by either diminishing the availability of minor emergency help and safety services, including minor automobile repair and public restrooms or discriminating against individuals needing refueling assistance. Residential, industrial, institutional, general commercial uses, mobile home parks and floating home marinas are not permitted. In accordance with LCP policies, residential uses existing as of the date of adoption of the ordinance from which this section derives, shall be allowed to be rebuilt if destroyed by natural disaster.

22.57.153I Design Standards. Requirements for design, site preparation and use of the project shall be imposed as necessary to implement the goals and policies of the local coastal plan, the Marin Countywide Plan and any applicable community plan.

22.57.154I Submission Requirements. Applications shall contain all the elements or requirements of Chapters 22.45 and 22.56I. All or a portion of the general submission requirements for master plan and/or development plan review and approval may be waived by the planning director. If master plan requirements are waived, a proposal shall be submitted which meets the requirements of Chapter 22.82I (Design Review). (Ord. 2888 § 2 (part), 1985; Ord. 2703 § 18, 1982)

22.57.200I Design standards table.

The following design standards shall apply in the respective coastal districts:

Zone	Building Site Requirements	Setbacks	Floor area				
District	Lot Area	Average Width	Front	Side	Rear	Height	Ratio
C-R-A	7,500 sq. ft.	60 ft.	25 ft. lot depth ¹	6 ft.	20%	25 ft.*.	30%
C-H-1	7,500 sq. ft.	60 ft.	-	-	-	25 ft.*	-
C-R-I	7,500 sq. ft.	60 ft.	25 ft. lot depth ¹	6 ft.	20%	25 ft.*	30%
C-R-2	7,500 sq. ft.	60 ft.	25 ft. lot depth ¹	6 ft.	20%	25 ft.*	30%

C-VCR	7,500 sq. ft.	60 ft.	0 ft.	5 ft.	15 ft. ¹	25 ft.*	-
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¹ Maximum rear yard setback of 25 feet.

* Height limit in Stinson Beach Highlands shall be seventeen feet.

² Commercial uses in C-VCR districts have no side and rear setbacks required.
(Ord. 2637 § 6 (part), 1981)

22.57.201I Regulations for B districts.

In any C district which is combined with any B district, the following design standard regulations, as specified for the respective B district, shall apply.

Zone	Building Site Requirements		Setbacks			
District	Lot Area	Average Width	Front	Side	Rear	Height
B-D	1,750 sq. ft.	35 ft.	10 ft.	5 ft.*	10 ft.	20 ft.
B-1	6,000 sq. ft.	50 ft.	25 ft.	5 ft.*		
B-2	10,000 sq. ft.	75 ft.	25 ft.	10 ft.		
B-3	20,000 sq. ft.	100 ft.	30 ft.	15 ft.		
B-4	1 acre	150 ft.	30 ft.	20 ft.		
B-5	2 acres	150 ft.	30 ft.	20 ft.		
B-6	3 acres	175 ft.	30 ft.	20 ft.		

* Side setback on corner lots--Minimum of ten feet.
(Ord. 2703 § 19, 1982: Ord. 2637 § 6 (part), 1981)

MARIN COUNTY LOCAL COASTAL PROGRAM Land Use Plan Amendments

Board of Supervisors Adopted ~~Draft~~

July 30, 2013

Important Note:
~~These amendments are not yet certified by the
California Coastal Commission~~

Marin County Board of Supervisors

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These documents are bound separately and are available for reference from the Marin County Community Development Agency and on the Local Coastal Program website at www.MarinLCP.org



Introduction

~~This proposed Land Use Plan document and the accompanying materials described below present proposed changes to the Marin County Local Coastal Program (LCP). The proposed amendments were recommended by the Marin County Planning Commission on February 13, 2012, and adopted by the Board of Supervisors with further modifications on July 30, 2013. The proposed amendments are the result of nearly five years of public, agency and individual involvement, formal hearings, and extensive deliberation by the Planning Commission followed by the Marin County Board of Supervisors.~~

~~The proposed amendments to the Marin County Local Coastal Program (LCP) are contained in is made up of~~ the following documents. These documents are available online at: www.MarinLCP.org.

- ~~The proposed “Land Use Plan (LUP) Amendments”~~ document includes policies and programs, as well as background and introductory text for each policy section.
- ~~The proposed “Development Code Amendments”~~ document is a means of implementing the policies and programs of the LCP Land Use Plan. ~~Coastal Zone-specific portions of the Marin County Development Code are included in this document, along with the full Definitions chapter.~~
- Policy maps and zoning maps for the Coastal Zone.
- ~~Appendices. The following Appendices constitute parts of the Local Coastal Program:~~
 - Appendix 1: List of Recommended Public Coastal Accessways
 - Appendix 2: Inventory of Visitor-Serving, Commercial, and Recreation Facilities in the Coastal Zone
 - Appendix 3: Coastal Village Community Character Review Checklist (Local Coastal Program Historic Review Checklist)

- Appendix 4: Design Guidelines for Construction in Areas of Special Character and Visitor Appeal and For Pre-1930's Structures
- Appendix 5: Seadrift Settlement Agreement
- Appendix 6: 1977 Wagner Report "Geology for Planning, Western Marin County"
- Appendix 7: Categorical Exclusions Orders and Maps
- Appendix 8: Certified Community Plans
 - a. Dillon Beach Community Plan
 - b. Bolinas Gridded Mesa Plan

~~The remaining materials (Background Reports 1 through 5) are presented for background only and do not constitute parts of the LCP.~~

~~The proposed Land Use Plan Amendments and the Development Code documents are entitled "Board of Supervisors Adopted Draft." Before endorsing these documents, the Marin County Board of Supervisors held two public workshops and seven public hearings from March 2012 through July 2013, each focusing on particular policy areas, to review and provide direction to staff on the policies, programs, Development Code provisions, and other contents contained in the draft LCP amendments.~~

~~Prior to review by the Board of Supervisors, the Marin County Planning Commission held nine public hearings from August 2011 through February 2012 to evaluate the proposed LCP amendments. In preparation for these public hearings, the Planning Commission conducted nineteen public workshops from March 2009 through January 2011. These workshops also focused on particular policy areas and resulted in revisions that were reflected in a June 2011 Public Review Draft of the entire Local Coastal Program. Furthermore, the Board of Supervisors and Planning Commission held a joint meeting on June 28, 2011 to adopt a schedule for further review of the LCP amendments and to accept public comments.~~

~~In addition to the public hearings and workshops conducted by the Planning Commission, staff of the Community Development Agency conducted four public meetings in West Marin communities during 2008 and 2009, at which time the process of updating the Local Coastal Program was introduced. Four additional community workshops were held during 2011, following publication of the June 2011 Public Review Draft of the LCP. Finally, staff has conducted numerous meetings with community groups, interested organizations, other agencies, and California Coastal Commission staff. At each public workshop, hearing, and meeting, public testimony and comments were accepted. A significant number of other written and electronic communications have also been received by the Planning Commission. Valuable feedback and input was gathered during this process and has been very helpful in facilitating the development of the policies, programs, and other provisions contained in these documents.~~

~~During the public hearings held on the proposed LCP amendments during 2011-13, the Planning Commission followed by the Board of Supervisors reviewed the entire Local Coastal Program, including those provisions proposed to be changed as well as those existing provisions proposed to be maintained as is. In reviewing LCP provisions, the Planning Commission and Board have taken into account the comments provided by members of the public and by community groups and agencies. The package of LCP amendments adopted by the Board of Supervisors on July 30, 2013, including the proposed Land Use Plan and Development Code, Maps, Appendices, and other referenced provision will be submitted to the California Coastal Commission for final review and certification.~~

The Local Coastal Program (LCP)

The Marin County Coastal Zone is a landscape of unsurpassed variety and beauty. Much of the area is encompassed within federal, state, and county parks, which provide habitat protection and opportunities

for public recreation. The Coastal Zone also includes several small villages, productive agriculture and mariculture areas, scattered residences, bed-and-breakfast inns, and significant amounts of open space. The Marin County Local Coastal Program (LCP) is designed to preserve the unique environment of the Coastal Zone and to encourage the protection and restoration of its coastal resources, while encouraging public enjoyment of its coastal recreation opportunities.

The LCP is the primary document that governs land development in the Marin County Coastal Zone. The LCP guides both public and private activities that constitute “development” on land or in water. In general, constructing a dwelling, a commercial building, a road, a boat dock, or other improvements constitutes a “development” that requires a coastal permit, with specific exceptions. Furthermore, “development” includes changes in the use of land or water, even where construction is not involved. The definition of “development” in its entirety is as follows:

Development. On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973(commencing with Section 4511 of the Public Resources Code).



As used in this section, “structure” includes any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Any activity meeting the definition of development within the Coastal Zone requires a Coastal Permit, unless the development is categorically excluded, exempt, or qualifies for a de minimis waiver, consistent with Chapter 22.68.

~~“Development” does not mean a “change of organization,” as defined in California Code Section 56021 or a “reorganization,” as defined in California Code Section 56073.~~

The Coastal Zone

The Marin County Coastal Zone is a strip of land and water defined by the California Coastal Act of 1976 that extends along the Pacific Ocean coastline. The Coastal Zone extends seaward from the shore a

distance of three miles, and a variable distance landward, depending on topography (see Map 2 - Marin County Coastal Zone; only the land portion of the Coastal Zone is shown on Map 2).

Purpose of the Local Coastal Program

The purpose of the LCP is to carry out the coastal resource protection policies of the California Coastal Act of 1976. Each coastal city and county in California is required by that law to prepare and implement an LCP for its portion of the Coastal Zone. Like other counties in California, Marin County has also adopted a comprehensive land use plan for its entire jurisdiction area, which extends landward well beyond the Coastal Zone boundary. Adopted in 2007, the Marin Countywide Plan and its related Community Plans guide land development throughout the County. However, in the Coastal Zone, the LCP takes precedence over these plans. Where the LCP contains specific provisions applicable to land and water development, such LCP provisions govern development activities. Policies of the Countywide Plan that are not addressed by the Coastal Act and the LCP (e.g. policies that address education, diversity, and public health) apply throughout the entire County, both within and outside the Coastal Zone.



Components of the Local Coastal Program

~~For purposes of submittal to the California Coastal Commission, as~~ As required by Coastal Act Section 30500, an LCP comprises a Land Use Plan, an Implementation Program, accompanying land use and zoning maps, and, where necessary, other implementing actions including those represented in the Appendices. The Land Use Plan contains written policies that indicate which land uses are appropriate in the various parts of the Coastal Zone. The LUP policies and programs also guide how natural resources shall be protected when land is developed, how public access to the coast shall be preserved, and how other coastal resources shall be maintained and enhanced.

Marin County's LCP Land Use Plan contains three major sections: Natural Systems and Agriculture, Built Environment, and Socioeconomic. The Natural Systems and Agriculture section contains the policy chapters of Agriculture; Biological Resources; Environmental Hazards; Mariculture; and Water Resources. The Built Environment section contains the policy chapters of Community Design; Community Development; Community Specific Policies; Energy; Housing; Public Facilities and Services; and Transportation. Finally, the Socioeconomic section contains the policy chapters of Historical and Archaeological Resources; Parks, Recreation and Visitor-Serving Uses; and Public Coastal Access. The Land Use Policy maps (Map Set 19a–19m) also form part of the Land Use Plan.

~~A second major component of an LCP is referred to by the Coastal Commission as the~~ Marin County's LCP Implementation Program (IP). ~~In Marin County's case, this component~~ consists of the coastal zone-specific portion of the Marin County Development Code and the zoning maps for the Coastal Zone (Map Set 29a–29l). The IP plays a central role in carrying out the policies and programs of the Land Use Plan by indicating which land uses are appropriate in each part of the Coastal Zone. Furthermore, the Code provisions of the IP contain specific requirements that apply to development projects, as well as detailed procedures for applicants to follow in order to obtain a coastal permit.

Finally, Marin County's LCP includes the resource and other maps found in the published set of maps and Appendices 1 through 8, as described above.

The Coastal Permit

The primary tool for implementing the LCP is the “coastal permit.” Most types of ~~land~~-development activities require that a coastal permit be issued by Marin County. Certain projects, such as those that involve work on tidelands around the margin of Tomales Bay, require a coastal permit from the California Coastal Commission (a state agency) rather than from the ~~County~~-County, although other Marin County non-coastal permit requirements may still apply.

The Marin County Community Development Agency (CDA) is responsible for implementing the LCP and for reviewing coastal permit applications. The CDA assists property owners and developers to determine whether their proposed project requires a coastal permit, whether the coastal permit should be obtained from Marin County or the Coastal Commission, and whether other types of permits from the County may also be required. Certain coastal permits approved by Marin County are appealable to the California Coastal Commission by an interested party who does not agree with the County’s decision regarding the permit. Such permits are known as permits for “appealable” permitsdevelopment (see appeal and permit jurisdiction areas on Maps 28a and 28b and Section 30603 of the Coastal Act).

Appendices

As noted previously, Appendices 1 through 8 constitute part of the LCP. These Appendices contain elements that are essential to the interpretation and application of Land Use Plan policies. For instance, Appendix 1 contains the list of recommended Public Coastal Accessways referred to in Land Use Plan Policy C-PA-6 “Acquisition of New Public Coastal Accessways through Suitable Means.” To improve readability of the Land Use Plan, this detailed list has been placed in an Appendix rather than in the body of the Land Use Plan itself.

~~The remaining material (Background Reports 1 through 5) contains background and supporting information that is intended to assist permit applicants and members of the public. The materials contained in the Background Reports are not part of the LCP for purposes of the California Coastal Act.~~

Additional historical and background information is available on the www.marinlcp.org website. This information is not part of the LCP.

The Appendices are as follows:

- Appendix 1: List of Recommended Public Coastal Accessways
- Appendix 2: Inventory of Visitor-Serving, Commercial, and Recreation Facilities in the Coastal Zone
- Appendix 3: Coastal Village Community Character Review Checklist (Local Coastal Program Historic Review Checklist)
- Appendix 4: Design Guidelines for Construction in Areas of Special Character and Visitor Appeal and For Pre-1930’s Structures
- Appendix 5: Seadrift Settlement Agreement
- Appendix 6: 1977 Wagner Report “Geology for Planning, Western Marin County”
- Appendix 7: Categorical Exclusions Orders and Maps
- Appendix 8: Certified Community Plans:
 - a. Dillon Beach Community Plan
 - b. Bolinas Gridded Mesa Plan

~~The Background Reports are as follows:~~

- ~~1. Policies of Chapter 3 of the California Coastal Act of 1976~~
- ~~2. Local Coastal Program Framework, including background information about the history of the LCP, how coastal permit requirements are implemented, and related materials~~
- ~~3. Biological Text Excerpts from Unit I and II LCP~~
- ~~4. Land Use Analysis~~
- ~~5. Agricultural Land Analysis~~



Interpretation of the Land Use Plan (INT)

Background

The Marin County Local Coastal Program (LCP) is the primary document that governs land development in the Marin County Coastal Zone. However, the policies of the LCP must be applied and interpreted within the context of other applicable Local, State, and Federal laws, as well as other local plans, policies and regulations. The following policies apply to the interpretation of the LCP ~~all policies within the Natural Systems and Agriculture, Built Environment, and Socioeconomic Sections of the Land Use Plan.~~

Policies

C-INT-1 Consistency with Other Law. The policies of the Local Coastal Program are bound by all applicable ~~Local~~, State and Federal laws, and none of the provisions of the LCP will be interpreted by the County in a manner which violates those laws. In particular, as required by the Coastal Act, Public Resources Code Section 30010, Marin County shall not grant or deny a permit in a manner that ~~would~~ will take or damage private property for public use, without the payment of just compensation ~~therefore~~. This policy is not intended to increase or decrease the rights of any property owner under the Constitutions of the State of California or the United States. When Marin County acts on a coastal development permit application pursuant to its certified LCP, it is implementing a statewide statute governing development by any person, including other state agencies.

C-INT-2 Precedence of LCP. In the coastal zone, ~~The~~ LCP supersedes and takes precedence over other local plans, policies and regulations, including any conflicting provisions of the Countywide Plan, Community Plans and relevant sections of the Marin County Code. Provisions that are not addressed by the Coastal Act and the LCP (e.g., policies that address education, diversity, public health, etc.) that apply throughout the County, also apply within the Coastal Zone, but not in a coastal permit context. Broader

policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies. The introductory background text in each chapter provides some broad context for each chapter, but shall not be used as the legal standard of review for coastal permit decisions.

C-INT-3 Community Plans. Community plans are part of the Marin Countywide Plan (CWP), and are implemented through measures such as Design Review and Use Permits. When separate from the LCP, community plans remain as important and relevant guides for development in their respective communities. The existing Dillon Beach and Bolinas Gridded Mesa community plans have been certified by the Coastal Commission and made part of the LCP; all other community plans have not. ~~However, the public LCP process identified many community plan policies that have been directly incorporated into, and will be implemented through, the LCP. Only the policies of the LUP, IP, and the two certified community plans in Dillon Beach and Bolinas Gridded Mesa can be used as legal standards of review for the issuance of coastal permits. Although separate from the LCP, community plans remain as important and relevant policy guides for development in their respective communities.~~

C-INT-4 Terminology. The following rules of interpretation shall apply, consistent with Marin County Development Code Sec.20.02.020.

1. ~~1.~~ Where the imperative form of a verb is used to start a policy, the policy will be interpreted as being a mandatory requirement which, if written in a "subject-verb" format, would incorporate the term "shall."
2. ~~When used in the Land Use Plan, the~~ The words "shall," "must," "will," "is to," and "are to" are always mandatory.
3. "Should" is not mandatory but is strongly recommended; and
4. "May" is permissive.
5. The present tense includes the past and future tenses; and the future tense includes the present.
6. The singular number includes the plural number, and the plural the singular, unless the natural construction of the word indicates otherwise.
7. "Including" means "... including but not limited to. . .".
8. ~~2.~~ Policy headings and titles are provided for convenience only. To the degree that these headings or titles conflict with the text they accompany, the text shall govern.



Natural Systems and Agriculture

Introduction

In the Marin County Coastal Zone, development is closely intertwined with the natural environment. Villages, homes, farms, and parks co-exist with natural communities of plants and animals. Water and biological resources are abundant, providing sustenance to wildlife as well as beauty and pleasure to residents and visitors. Agriculture, mariculture and open space are mainstays of both community character and the local economy. Yet these resources are vulnerable. Poorly planned land development and construction can degrade or eliminate the values of sensitive habitat areas, agricultural productivity, and the open, unspoiled character of the Marin County Coastal Zone. The Local Coastal Program (LCP) therefore includes strong policies requiring that new development is undertaken in a way that assures the protection of natural resources.

The Natural Systems and Agriculture section addresses the following subjects:

- ♦ Agriculture (AG)
- ♦ Biological Resources (BIO)
- ♦ Environmental Hazards (EH)
- ♦ Mariculture (MAR)
- ♦ Water Resources (WR)



Agriculture (AG)

Background

The rolling coastal hills and stream valleys of the Marin County Coastal Zone provide an exceptional environment for a distinctive type of agriculture that takes advantage of high quality grasslands sustained by the cool, moist conditions that prevail much of the year. Animal agriculture makes up the greatest part of the County's total agricultural production. This includes beef cattle, sheep, poultry and eggs, as well as dairy cows and the milk, yogurt, and cheese they yield. While the hilly terrain, pervasiveness of non-prime soils, and scarcity of dependable water sources limit intensive row crop cultivation through most of the Coastal Zone, a number of farms, many of them organic, raise fruits, vegetables, flowers, nuts and other crops.

In Marin County, coastal agriculture is important as an essential livelihood, a foundation for regional economic activity, and a wholesome, local source of food for residents of the Bay Area and beyond. It is estimated that every dollar of agricultural production yields a multiple of 2.5 additional dollars contributed to the local economy in employment opportunities, support industries, and tourism. In addition to economic benefits, agricultural land use also provides crucial ecosystem services such as the maintenance of soil fertility and structure, wildlife habitat and biodiversity, watershed benefits, nutrient cycling, and carbon sequestration. Finally, the working agricultural landscape provides world-class views, a pastoral frame for Marin's distinctive coastal villages, and an extraordinary open space backdrop for the myriad of recreational activities offered throughout the Coastal Zone. For all these reasons, the Local Coastal Program (LCP) policies seek to preserve viable agriculture as a permanent part of the fabric of coastal Marin for the benefit of residents, visitors, and the environment itself (see Map 3 - Protected Agricultural Lands).

The Coastal Act protects coastal agriculture as a high priority coastal resource. Toward this end, the Act supports the renewal and continuation of agriculture on suitable lands in Sections 30241, 30241.5, and 30242. The conversion of land with prime agricultural soils to non-agricultural uses, such as residential or commercial development, is strictly limited by the Act; however, very little of the land in Marin County's Coastal Zone is classified as prime (see Map 4 - Agricultural Land). The Coastal Act mandates that all other lands suitable for agricultural use shall not be converted to



nonagricultural uses unless continued or renewed agricultural use is not feasible, or such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Achieving these goals depends on interdependent resources: the land itself, and the people and systems that make it agriculturally productive. Marin is fortunate to have a strong community dedicated to agriculture and its future, comprised of hard-working, experienced, and resourceful people. However, some important trends point to the need to adjust for certain LCP provisions to help assure that future.

In an era of corporate, industrialized agriculture, the great majority of Marin farms and ranches are family owned and operated, with most of those the third or fourth generation working the land. Fluctuating commodity prices, the expense of investments needed to stay competitive, and the rising cost of farmland are only some of the challenges casting doubt over the future viability of coastal agriculture. One clear need is the ability to pass the reins to the younger generation, while providing for the retiring one. In 1997 the average age of Marin's principal agricultural operators was 55.7 years. By 2002 it had risen to 58.4, and in 2007, to 59.7. At the same time, the family unit itself is a critical part of maintaining agriculture. 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. Providing policies that support current agriculture while responding to these important trends is one of the key objectives of the 2014 revisions to the ~~changes proposed to the~~ LCP, especially including the provisions for intergenerational homes (Policy C-AG-5).

Other policies similarly provide for the essentials sustaining agriculture. Over half our farms and ranches report hiring farm labor, but securing additional farmworker housing has been a challenge. Many agricultural activities, especially dairying, require workers close at hand. As with other commercial and visitor-serving support workers, the lack of suitable housing leads to longer commutes with attendant traffic congestion, pollution and greenhouse gas emissions. The LCP recognizes that farmworker housing is an integral part of many the principal permitted use of agricultural operationse (Programs C-AG-2.b and 2.c).

Prices for commodities such as milk and beef are notoriously volatile and unreliable, often placing Marin's relatively small producers in jeopardy. Recently, one of Marin's historical dairies had to go out of business. Marin agriculture has responded with innovation and creativity to secure its future. Responding to a Cooperative Extension survey, 29% of Marin operations report having added new productions or enterprises to their farm or ranch over recent years, and 24% are making value-added products. ~~Proposed~~

This LCP's policies would will help support such agricultural diversification, including making it easier for small scale direct to consumer sales (Program C-AG-2.e).

While strengthening the economic vitality and long-term protection of agriculture, LCP policies work equally hard to deter the incursion of non-agricultural uses that would convert agricultural land and ~~erode~~impair agricultural productivity ~~on now and in the future~~. A key measure to continue the preservation of agriculture is the Agricultural Production Zone (C-APZ), which limits the use of land to agriculture, or uses that are accessory to, in support of, ~~and compatible with~~, and necessary for agricultural production. Additional LCP policies protect the land itself, by limiting land subdivisions and non-agricultural uses, providing for long-term agricultural and stewardship plans, and by controlling the size of ~~private residences~~ agricultural dwelling units. Together, the LCP agricultural policies shape a balanced strategy to assure the protection of agricultural lands and to continue agricultural uses throughout the Marin County Coastal Zone for generations into the future.

Policies

C-AG-1 Agricultural Lands and Resources. Protect agricultural land, continued agricultural uses, family farming, and the agricultural economy by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, providing for diversity in agricultural development, facilitating multi-generational operation and succession, ~~and~~ prohibiting uses that are incompatible with long-term agricultural production or the rural character of the County's Coastal Zone, and other innovative means. Preserve important soils, agricultural water sources, and forage to allow continued agricultural production on agricultural lands.

[BOS app. 7/30/2013]

(PC app. 10/10/11, 1/24/11)

[Adapted from Unit II Agriculture Policy 1, p. 98, and CWP Goal AG-1, p. 2-157]



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~~, and necessary for agricultural production.

In the C-APZ zone, the principal permitted use shall be agriculture, limited to the following as follows:

1) Agricultural Production:

- ~~1.~~ Uses of land for the breeding, raising, pasturing, and grazing of livestock;
- ~~2.~~ The production of food and fiber;
- ~~3.~~ The breeding and raising of bees, fish, poultry, and other fowl;
- ~~4.~~ The planting, raising, harvesting and producing of agriculture, aquaculture, mariculture, horticulture, viticulture, vermiculture, forestry crops, and plant nurseries;
- ~~5.~~ Substantially similar uses of an equivalent nature and intensity; and

~~6.2) Agricultural Accessory s~~Structures;

3) Agricultural Accessory Activities; ~~or uses~~

4) One farmhouse or a combination of one farmhouse and one intergenerational home per legal lot, consistent with C-AG-5, including combined total size limits;

5) Agricultural worker housing, providing accommodations consisting of no more than 36 beds in group living quarters per legal parcel or 12 units or spaces per legal lot for agricultural workers and their households;

6) Other Agricultural Uses, if appurtenant and necessary to the operation of agricultural ~~real uses~~, limited to: 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).

- Agricultural product sales and processing of products grown within the farmshed, provided that for sales, the building(s) or structure(s), or outdoor areas used for sales do not exceed an aggregate floor area of 500 square feet, and for processing, the building(s) or structure(s) used for processing activities do not exceed an aggregate floor area of 5,000 square feet;
- Not-for-profit educational tours.

Conditional uses in the C-APZ zone include a second intergenerational home per legal lot, for-profit educational tours, agricultural homestay facilities, agricultural worker housing above 12 units per legal lot, and additional agricultural uses and non-agricultural uses—including residential development potentially up to the zoning density, consistent with Policies C-AG-5, 6, 7, 8 and 9.

Development shall not exceed a maximum density of 1 ~~agricultural dwelling residential~~ unit per 60 acres. Densities specified in the zoning are not entitlements but rather maximums that may not be achieved when the standards of the Agriculture policies below and other relevant LCP policies are applied. The County (and the Coastal Commission on appeal) may include all contiguous properties under the same ownership when reviewing a Coastal Permit application.

[BOS app. 10/2/2012, 11/13/2012, 1/15/2013]

(PC app. 10/10/11, 1/24/11)

[Adapted from Unit II Agriculture Policies 2 and 3, p. 98, and CWP Program AG-1.g, p. 2-162]

Program C-AG-2.a Allowed Uses: No permit required. Seek to clarify for the agricultural community those agricultural uses for which no permit is required. These include the Agricultural Exclusions from the existing CCC-adopted Categorical Exclusion Orders. Review aspects of

agricultural operations that are not currently excluded from coastal permit requirements to determine if there are additional categories of agricultural developments in specific geographic areas that have no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access and, hence, could be eligible additions to the categorical exclusion.

~~{BOS app. 10/2/2012, 7/30/2013}~~

~~{PC app. 10/10/11, 1/24/11}~~

~~*{New program, not in Unit I or II}*~~

Program C-AG-2.e Community-Specific Retail Sales Policies.

Policies should be developed in the LCP's Community Development section, as appropriate, to address the concerns of specific communities with respect to retail sales (roadside especially). As necessary, greater constraints on these activities could be specified for individual communities or roadway segments than the general provisions in the LCP's Agriculture section (up to and including, for example, the possibility of specifying an outright prohibition of roadside agricultural sales in a particular area or along a particular stretch of roadway).

~~{PC app. 1/9/12, 10/10/11, 1/24/11}~~

~~*{New program, not in Unit I or II}*~~



Program C-AG-2.f Facilitate Agricultural Tourism.

Review agricultural policies and zoning provisions and consider seeking to add educational tours, homestays and minor facilities to support them as a Categorical Exclusion.

~~{PC app. 10/10/11, 1/24/11}~~

~~*{New program, not in Unit I or II}*~~



C-AG-3 Coastal Agricultural Residential Planned Zone (C-ARP).

Apply the Coastal Agricultural Residential Planned Zone (C-ARP) designation to lands adjacent to residential areas, ~~and at the edges of Agricultural Production Zones~~ in the Coastal Zone that have potential for agricultural production but do not otherwise qualify for protection under Policy C-AG-2.

The intent of the C-ARP Zone is to provide flexibility in lot size and building locations in order to:

1. Promote the concentration of residential and accessory uses to maintain the maximum amount of land available for agricultural use, and
2. Maintain the visual, natural resource and wildlife habitat values of subject properties and surrounding areas. The C-ARP district requires proposed development to be clustered ~~in a group or groups~~ to avoid or minimize impacts to environmental and other coastal resources, such as natural topography, native vegetation and public views of the coast.

Residential use shall be the principal permitted use in all parcels with the land use designation of C-AG3. Agriculture shall be the principal permitted use in all parcels with the C-AG1 and C-AG2 land use designations.

~~[BOS app. 7/30/2013]~~

~~(PC app. 10/10/11, 1/24/11)~~

~~[Adapted from Interim County Code Section 22.57.040. This policy also carries forward the concept of Unit I Agriculture Policy 30, p. 35]~~

C-AG-4 C-R-A (Coastal, Residential, Agricultural) District. Apply the C-R-A zoning district to provide areas for residential use within the context of small-scale agricultural and agriculturally-related uses, subject to specific development standards.

~~(PC app. 10/10/11, 1/24/11)~~

~~[Adapted from Interim County Code Section 22.57.020]~~

C-AG-5 Agricultural Dwelling Units (Farmhouses, Intergenerational Housing, and Agricultural Worker Housing). Support the preservation of family farms by facilitating multi-generational operation and succession. Agricultural dwelling units may be permitted on C-APZ lands subject to the policies below, as well as any applicable requirement in C-AG-6, 7, 8, and 9, and all other applicable requirements in the LCP. Agricultural dwelling units must be owned by a farmer or operator actively and directly engaged in agricultural use of the property. No more than a combined total of 7,000 sq ft may be used as an agricultural dwelling by the farm owner or operator, whether in a single farmhouse or in a combination of a farmhouse and intergenerational homes(s). Only a single farmhouse or a combination of a farmhouse and intergenerational home(s) with the combined total of 7,000 square feet may be allowed for each farm owner or operator actively and directly engaged in agriculture, regardless of the number of legal lots each farm owner or operator owns. In addition to the farmhouse, up to two additional dwelling units per legal lot may be permitted in the C-APZ designation for members of the farm operator's or owner's immediate family. Such intergenerational family farm homes may only be occupied by persons authorized by the farm owner or operator, shall not be subdivided from the rest of the primary agricultural legal lot, and shall be consistent with the standards of LCP Policy C-AG-7 and the building size limitations of Policy C-AG-9. Such intergenerational homes shall not be subject to the requirement for an Agricultural Production and Stewardship Plan (C-AG-8), or permanent agricultural conservation easement (C-AG-7), nor shall occupants be required to be actively and directly engaged in the agricultural use of the land. An equivalent density of 60 acres per unit shall be required for each home farmhouse and intergenerational house (i.e. at least 60 acres for a farmhouse, 120 acres for a farmhouse and an intergenerational house, and 180 acres required for a farmhouse and two intergenerational homes), including any existing homes. The reviewing authority shall consider all contiguous properties under the same ownership to achieve the requirements of the LCP. No Use Permit shall be required for the first intergenerational home on a qualifying lot, but a Use Permit shall be required for a second intergenerational home. No more than 27 intergenerational homes may be allowed in the County's coastal zone. Agricultural worker housing providing accommodations consisting of no more than 36 beds in group living quarters per legal parcel or 12 units or spaces per legal parcel for agricultural workers and

their households shall not be included in the calculation of density in the following zoning districts: C-ARP, C-APZ, C-RA, and C-OA. Additional agricultural worker housing above 36 beds or 12 units shall be subject to the density requirements applicable to the zoning district. An application for agricultural worker housing above 36 beds or 12 units shall include a worker housing needs assessment and plan, including evaluation of other available worker housing in the area. The amount of approved worker housing shall be commensurate with the demonstrated need. Approval of agricultural worker housing shall require recording a restrictive covenant running with the land for the benefit of the County ensuring that the agricultural worker housing will continuously be maintained as such, or, if no longer needed, for non-dwelling agricultural production related uses.

(PC app. 2/13/12, 10/10/11, 1/24/11)

~~[New policy, not in Unit I or II]~~

C-AG-6 Non-Agricultural Development of Agricultural Lands. Non-agricultural development is defined to include division of agricultural lands and any development not classified as Agriculture. Require that non-agricultural development, including division of agricultural lands, shall only be allowed upon demonstration that long-term agricultural productivity, including on each parcel created in the case of a land division, would be maintained and enhanced as a result of such development, and that agricultural productivity on adjacent parcels would be maintained. In considering divisions of agricultural lands in the Coastal Zone, the County may approve fewer parcels than the maximum number of parcels allowed by the Development Code, based on site characteristics such as topography, soil, water availability, environmental constraints and the capacity to sustain viable agricultural operations.

(PC app. 10/10/11, 1/24/11)

~~[Adapted from CWP Policy AG-1.5, p. 2-158, and consistent with Coastal Act Policy 30241 and 30242]~~

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. In addition to the requirements applicable to a specific land use and all other applicable requirements specified in the LCP, the following shall apply to development in the C-APZ:

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

All of the following development standards apply:

1. Permitted development shall protect and maintain renewed and continued agricultural production use and contribute to agricultural viability on-site and on adjacent agricultural lands. 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~~ such land is necessary, prime agricultural land shall not be ~~converted~~ utilized if it is possible to utilize other lands suitable for agricultural use. In addition, as little agricultural land as possible shall be ~~converted~~ used for structural development.
2. Development shall be permitted only where adequate water supply, sewage disposal, road access and capacity and other services are available to support the proposed development after provision has been made for existing and continued agricultural ~~operations~~ production. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats, have significant effects on groundwater resources, or significantly reduce freshwater inflows to water bodies, including Tomales Bay, either individually or cumulatively.
3. Permitted development shall have no significant adverse impacts on environmental quality or natural habitats, and shall meet all other applicable policies, consistent with the LCP.

4. In order to retain the maximum amount of land in agricultural production or available for future agricultural ~~uses~~ production, farmhouses, intergenerational homes, and agricultural homestay facilities all infrastructure and structural development (e.g. agricultural accessory structures, other ~~agricultural uses, and roads~~) shall be placed ~~in one or more groups along with any non-agricultural development on~~ within a clustered development area of a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space.

All new structural development shall be clustered within existing developed areas, except when:

- (a) placement outside such areas is necessary for agricultural operations (e.g. when a more remote barn is required in a different part of the property to allow for efficient agricultural operations); or
- (b) when placement inside such areas would be inconsistent with applicable LCP standards (e.g. when such placement would be within a required stream setback area).

In the latter case, new development shall be placed as close as possible to the existing clustered development area in a way that also meet applicable LCP standards.

Development shall be located close to existing roads, and shall not require new road construction or improvements resulting in significant impacts on agriculture, natural topography, major vegetation, or significant natural visual qualities of the site. Development shall be sited to minimize impacts on coastal resources and adjacent agricultural operations and shall be designed and sited to avoid hazardous areas.

B. Standards for Non-Agricultural Non-Principally Permitted Uses:

In addition to the standards of Section A. above, all of the following development standards apply to non-principally permitted uses ~~non-agricultural uses, including division of agricultural lands or construction of two or more dwelling units (excluding agricultural worker or intergenerational housing).~~ The County shall determine the density of permitted agricultural dwelling residential units or land divisions only upon applying Policy C-AG-6 and the following standards and making all of the findings listed below.

- ~~1. In order to retain the maximum amount of land in agricultural production or available for future agricultural use, homes, roads, residential support facilities, and other non agricultural development shall be placed in one or more groups on a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space. Proposed development shall be located close to existing roads, or shall not require new road construction or improvements resulting in significant impacts on agriculture, natural topography, major vegetation, or significant natural visual qualities of the site. Proposed development shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations and shall be designed and sited to avoid hazardous areas. Any new parcels created shall have building envelopes outside any designated scenic protection area.~~
1. Non-principally permitted uses shall only be allowed when such uses will serve to maintain and enhance agricultural production.
2. The creation of a homeowners' or other organization and/or the submission of an Agricultural Production and Stewardship Plan (APSP) may be required to provide for the proper utilization of

agricultural lands, ~~including and~~ their availability on a lease basis or for the maintenance of the community's roads, septic or water systems.

C. Standards for Non-Agricultural Conditional Uses:

In addition to the standards of Sections A and B above, all of the following development standards apply to non-agricultural conditional uses.

31. Where consistent with state and federal laws, a permanent agricultural conservation easement over that portion of the property not used for physical development or services shall be required for ~~proposed otherwise permissible land divisions; and other non-agricultural development; and residential projects, other than a farmhouse, agricultural worker housing, or intergenerational housing;~~ to promote the long-term preservation of these lands. Only agricultural and compatible uses shall be allowed under the easement. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that each will be retained as a single unit and will not be further subdivided.



- 42.** Proposed development shall only be approved after making the following findings:
- a. The development is necessary because agricultural use of the property would no longer be feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship or enhance agricultural operations on the remainder of the property.
 - b. The proposed development will not conflict with the continuation or initiation of agricultural uses on that portion of the property that is not proposed for structural development, on adjacent parcels, or on other agricultural parcels within one mile of the perimeter of the proposed development.
 - c. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development without extending urban services.

~~{BOS app. 10/2/2012, 11/13/2012, 2/26/2013}~~

~~{PC app. 2/13/12, 1/9/11, 1/24/11}~~

~~{Adapted from Unit II Agricultural Policies 4 and 5, pp. 98-99. This policy also carries forward Unit I Agriculture Policy 30, p.35.}~~

C-AG-8 Agricultural Production and Stewardship Plans.

1. Submission of an Agricultural Production and Stewardship Plan (APSP) shall be required for approval of land division or other non-agricultural development of Agricultural Production Zone (C-APZ) lands, except as provided for in (3) below.
2. The purpose of an APSP prepared and submitted for land division or ~~for residential or~~ other non-agricultural development of C-APZ lands is to ensure that long-term agricultural productivity will occur and will substantially contribute to Marin's agricultural industry. Such a plan shall clearly

identify and describe existing and planned agricultural uses for the property, explain in detail their implementation, identify on-site resources and agricultural infrastructure, identify product markets and processing facilities (if appropriate), and demonstrate how the planned agricultural uses substantially contribute to Marin's agricultural industry. An APSP shall provide evidence that at least 95% of the land will remain in agricultural production or natural resource protection and shall identify stewardship activities to be undertaken to protect agriculture and natural resources. An APSP shall be prepared by qualified professionals with appropriate expertise in agriculture, land stewardship, range management, and natural resource protection. The approval of a development proposal that includes an APSP shall include conditions ensuring the proper, long-term implementation of the plan.

3. The requirement for an APSP shall not apply to the farmhouse, agricultural worker housing or to intergenerational homes using units. ~~The APSP may be waived for residences and residential accessory buildings or structures to be occupied or used by the property owner(s) or lessee who is directly engaged in the production of agricultural commodities for commercial purposes on the property. If~~ The APSP may also be waived for non-agricultural land uses when the County finds that the proposal will enhance current or future agricultural use of the property and will not convert the property to primarily residential or other non-agricultural use, as evidenced by such factors as bona fide commercial agricultural production on the property, the applicant's history and experience in production agriculture, and the fact that agricultural infrastructure (such as fencing, processing facilities, marketing mechanisms, agricultural worker housing, or agricultural land leasing opportunities) has been established or will be enhanced.
4. Projects subject to the potential requirement of preparing an APSP ~~should~~ shall be referred to such individuals or groups with agricultural expertise as appropriate for analysis and a recommendation. Such individuals or groups ~~should~~ shall also be requested to periodically review and evaluate the effectiveness of the APSP program.

[BOS app. 10/2/2012]

(PC app. 2/13/12, 10/10/11, 1/24/11)

[Adapted from CWP Program AG-1.b, pp. 2-160 and 2-161]

Program C-AG-8.a Commercial Agricultural Production. Develop criteria and standards for defining commercial agricultural production so that APSPs can differentiate between commercial agricultural production and agricultural uses accessory to residential or other non-agricultural uses.

(PC app. 10/10/11, 1/24/11)

[New program, not in Unit I or II]

C-AG-9 ~~Residential Development~~ Agricultural Dwelling Unit Impacts and Agricultural Use. Ensure that lands designated for agricultural use are not de facto converted to residential use, thereby losing the long-term productivity of such lands, by the following means:-

1. ~~Residential development~~ Agricultural dwelling units, other than principally permitted agricultural dwelling units, shall be reviewed to ensure they do not be allowed to diminish current or future agricultural production on use of the property or convert it to primarily residential use.
2. Any proposed agricultural dwelling unit and related residential development subject to a Coastal Permit shall comply with LCP policies including ensuring that the mass and scale of new or expanded structures respect environmental site constraints and the character of the surrounding area. Such development must be compatible with ridge protection policies and avoid tree-cutting and grading wherever possible. All such development shall be clustered with existing structures and development on the farm, pursuant to C-AG-7, and shall be sited and designed to protect significant public views.

When considering proposed agricultural dwelling units, other than principally permitted agricultural dwelling units, the County reviewing authority shall exercise its discretion in light of some or all of the following criteria and for the purpose of ensuring that the parcel land does not de facto convert to residential use:

- a. The applicant's history of production agriculture.
 - b. How long term agricultural use of the property will be preserved — for example, whether there is an existing or proposed dedication or sale of permanent agricultural easements or other similar protective agricultural restrictions such as Williamson Act contract or farmland security zone.
 - c. Whether long term capital investment in agriculture and related infrastructure, such as fencing, processing facilities, market mechanisms, agricultural worker housing or agricultural leasing opportunities have been established or are proposed to be established.
 - d. Whether sound land stewardship practices, such as organic certification, riparian habitat restoration, water recharge projects, fish-friendly farming practices, or erosion control measures, have been or will be implemented.
 - e. Whether the proposed ~~residence~~development will facilitate the ongoing viability of agriculture such as through the ~~intergenerational transfer~~ or lease of existing agricultural operations.
3. In no event shall ~~a single-family residence~~ agricultural dwellings subject to these provisions exceed 7,000 square feet in size. Where a farmhouse and one or two intergenerational residence units are allowed in the C-APZ zone, the aggregate ~~residential development of all homes~~ on the subject legal lot shall not exceed 7,000 square feet.
 4. However, agricultural worker housing, up to 540 square feet of garage space for each farmhouse ~~residence unit~~, agricultural accessory structures, and up to 500 square feet of office space in the farmhouse used in connection with the agricultural operation on the property shall be excluded from the 7,000 square foot limitation.
 5. The square footage limitations noted in the above criteria represent ~~potential~~ maximum ~~residence~~ agricultural dwelling unit sizes and do not establish a mandatory entitlement or guaranteed right to development; rather, site constraints and resource protection standards may require reduced size limits in any particular case.
 6. Agricultural homestays, bed & breakfasts, home occupations, care facilities, group homes and similar uses allowed in the C-APZ zone may only occur within otherwise allowable agricultural dwelling units and not within additional separate structures.

(PC app. 10/10/11, 1/24/11)

[Adapted from CWP Program AG-1.a, pp.2-159 and 2-160]

C-AG-10 Marin Agricultural Land Trust (MALT) and Other Methods of Preserving Agriculture. Support the objectives of the Marin Agricultural Land Trust (MALT) to protect agricultural lands through the transfer, purchase, or donation of development rights or agricultural conservation easements on agricultural lands. Support and encourage action by MALT in the Coastal Zone to preserve agricultural land for productive uses. Support the use of the County's adopted model agricultural easement, implementation of Transfer of Development Rights (TDR) programs and similar innovative techniques to permanently preserve agricultural lands.

(PC app. 10/10/11, 1/24/11)

[Adapted from Unit II Agriculture Policy 7, p. 101]



Biological Resources (BIO)

Background

The Marin County Coastal Zone contains a broad range of estuarine and marine environments, tidal marshes, freshwater wetlands, stream corridors, upland forests, chaparral, and grasslands.

Much of the Coastal Zone in Marin County is managed by the National Park Service, California Department of Parks and Recreation, and California Department of Fish and Game. These agencies place a high priority on resource stewardship along with serving recreation purposes. Various state and federal laws and regulations govern the definition and protection of biological resources, including the state and federal Endangered Species Acts and the federal Migratory Bird Treaty Act.

Despite a wealth of protections, biological resources remain vulnerable. Land development, if not well-planned and executed, can result in degradation of resources through loss or fragmentation of wildlife habitat, filling of crucial wetlands, and displacement of plant communities.

The Coastal Act places a high priority on the protection of biological resources. Strict limits are placed on development in environmentally sensitive habitat areas (ESHA). The Act defines such areas to encompass habitats that are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. ~~In general, only~~ land uses that are dependent on the habitat resources are allowable within ESHAs.

Wetlands are one class of ESHA and in California approximately 92 percent of our wetlands have been lost. The Coastal Act defines wetlands broadly and addresses both areas of substantial size, such as Bolinas Lagoon, and smaller, isolated wetlands, such as those formed by seeps or springs. Very limited types of development are allowed in wetlands and then only where there is no feasible less environmentally damaging alternative and feasible mitigation measures have been adopted.



Streams are another type of ESHA. Many species of animals and plants are dependent on them and on their associated riparian corridors, which are especially valuable as habitat connectors. The Coastal Act allows very limited types of development within streams, including necessary water supply projects, flood control projects, and habitat improvement projects.

Other sensitive biological resources in the County's coastal zone include dunes and beaches, salt marshes, fresh water marshes, tidal freshwater wetlands, riparian corridors, chaparral, and grasslands, which are fragile habitats that are

easily disturbed, as well as communities of rare plants, and essential habitats for protected species of fish and wildlife such as Snowy Plover (*Charadrius alexandrinus nivosus*), Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*), California red-legged frog (*Rana draytonii*) and Central California coast steelhead (*Oncorhynchus mykiss*). This list is not exhaustive, but is meant to highlight those habitats that are prevalent in the Coastal Zone (see Map 5 – Vegetation, Map 6 – Special-status Species and Sensitive Natural Communities, and Map 7 – Wetlands and Streams).

The biological resources of Marin County include unique habitat areas that support wildlife and plants that maintain the function and integrity of the ecosystem. These areas not only serve an important ecological function, but they also have an intrinsic and aesthetic value to residents and visitors. The ecological importance of these areas has been recognized, such as the special designation of Bolinas Lagoon and Tomales Bay as "Wetlands of International Significance" by the Convention on Wetlands of International Importance, called the Ramsar Convention. This intergovernmental treaty provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. Bolinas Lagoon received its recognition on September 1, 1998, and Tomales Bay on September 30, 2002.

Bolinas Lagoon and Tomales Bay are part of a larger, relatively undisturbed complex of wetlands along the Marin/Sonoma coast that includes Drakes and Limantour Esteros, Abbotts Lagoon, Estero Americano, Estero de San Antonio, and Bodega Harbor. Tomales Bay, Bolinas Lagoon, and the waters along much of the County's ocean shoreline are also part of the Gulf of the Farallones National Marine Sanctuary. The area is within the Pacific flyway and supports approximately 20,000 wintering shorebirds, seabirds, and waterbirds both seasonally and year-round. Subtidal areas and extensive mudflats support diverse populations of invertebrates and provide nursery and feeding habitat for resident and migratory fish, while steelhead and coho salmon access streams in the watershed.

In Tomales Bay, eelgrass beds occur within the shallow waters at the northern end of the Bay that are critical for particular species of migratory birds, and for fish species such as Pacific herring. The rocky points, intertidal areas, and shoreline substrate in Tomales Bay provide habitat for many distinct invertebrate communities. The wetlands areas in Tomales Bay also serve as corridors to valuable spawning nurseries for the Coho salmon and Steelhead. Estero Americano and Estero de San Antonio are "seasonal estuaries" and their unique morphology result in a fjord-like quality which is not found in other California wetlands and results in a wide variety of species diversity and habitats.

The Coastal Zone also includes unique terrestrial habitats such as serpentine grasslands, chaparral habitat that contain endemic plants such as Mount Tamalpais Manzanita (*Arcostaphylos hookeri Montana*), and

coastal terrace prairie grasslands. In California, there has been a loss of 99% of native grasslands which offer valuable foraging and dispersal habitat for many wildlife species. The coastal dune communities provide habitat for several species of plants and animals that have adapted to the harsh environment of the shoreline and provide protection to inland areas from wave run-up generated by prolonged storms and high seas. The list of unique species and habitats of the Coastal Zone is extensive, which is evident in the amount of literature and research that has been produced in the region, as highlighted in the 1980 Marin County Local Coastal Programs, Unit I and Unit II.

In 1980 and 1981, respectively, the Marin County Local Coastal Program, Unit I and Unit II were certified by the State Coastal Commission. These original plans contain important information regarding the natural resources, geology, and historical development of the Coastal Region. This plan is a continuation of the direction and foundation of knowledge established in the original plans. Since approval of the original LCPs, certain programs have been completed and new knowledge gained; yet, there is still much more to learn. The policies in this chapter are based on the foundation of the original LCP's commitment to conservation and protection of our biological resources, while providing for development that is allowed under the Coastal Act and preserving the function and values of these areas. These policies are to be implemented in light of the best available science, including reports, studies, or plans that are now available or may be available in the future regarding environmental findings, such as:

- Bolinas Lagoon Ecosystem Restoration Project: Recommendations for Restoration and Management, Gulf of the Farallones National Marine Sanctuary Advisory Council, Bolinas Lagoon Restoration Project Working Group, 2008.
- Fisheries Assessment for Bolinas Lagoon Tributaries within the Golden Gate Area, Golden Gate National Park Service, 2002.
- Projecting the Future Evolution of Bolinas Lagoon, Marin County Open Space District, 2006
- Tidal Marsh Birds of the San Francisco Bay Region, Status, Distribution and Conservation of 5 Category 2 Taxa, USGS, 1997.

Implementation of the Local Coastal Program (LCP) is carried out, in part, through the use of mapped data. Maps of biological resources, including special status species, wetlands, and streams, are included in the LCP document. While these maps are important indicators of the presence of significant resources that require protection under LCP policies, additional information regarding such resources will become available through site-specific review of proposed projects, through future map updates, and through other means. Thus, protection of biological resources is not limited to those that are mapped in this document. Furthermore, LCP policies address areas adjacent to ESHAs and parks and recreation areas, and as knowledge about those areas increases or as park boundaries change through land acquisitions, the LCP policies will be applied accordingly.

This region is also home to nonprofit research organizations and institutions such as the Audubon Canyon Ranch and PRBO Conservation Science (formerly the Point Reyes Bird Observatory) Palomarin Field Station and Wetland Center that actively contribute to the growing body of research on conservation science which can be used to address problems related to watershed protection, habitat management, recreational pressures, invasive species, and other coastal management issues, and these databases of knowledge should be included in relevant discussion related to ESHAs.

Marin County's biological resources are intertwined with villages, farms, homes, and roads. LCP policies are designed to support the protection and enhancement of biological resources, while also allowing the activities of coastal residents and visitors continue to flourish.

Policies

C-BIO-1 Environmentally Sensitive Habitat Areas (ESHAs).

1. An environmentally sensitive habitat area (ESHA) is any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.
2. ESHA consists of three general categories: wetlands, streams and riparian vegetation, and terrestrial ESHAs. Terrestrial ESHA ~~refers to those~~ includes non-aquatic habitats that support rare and endangered species; coastal dunes as referenced in C-BIO-7 (Coastal Dunes); roosting and nesting habitats as referenced in C-BIO-10 (Roosting and Nesting Habitats); and riparian vegetation that is not associated with a perennial or intermittent stream. The ESHA policies of C-BIO-2 (ESHA Protection) and C-BIO-3 (ESHA Buffers) apply to all categories of ESHA, except where modified by the more specific policies of the LCP.

[BOS app. 10/2/2012, 11/13/2012, 1/15/2013]

(PC app. 1/23/12, 12/1/11, 1/24/11)

[Adapted from Unit I Habitat Protection Policies 24 and 25, p. 34, and Unit II Natural Resources Policy 5, p. 74]

C-BIO-2 ESHA Protection.

1. Protect ESHAs against disruption of habitat values, and only allow uses within those areas that are dependent on those resources or otherwise specifically provided in C-BIO-14 (Wetlands), C-BIO-15 (Diking, Filling, Draining and Dredging) or C-BIO-24 (Coastal Streams and Riparian Vegetation). Disruption of habitat values ~~occurs~~ includes when the physical habitat is significantly altered or when species diversity or the abundance or viability of species populations is reduced. The type of proposed development, the particulars of its design, and its location in relation to the habitat area, will affect the determination of disruption.
2. Accessways and trails that are fundamentally associated with the interpretation of the resource are resource dependent uses that shall be sited and designed to protect ESHAs against significant disruption of habitat values in accordance with Policy C-BIO-2.1. Where it is not feasible to avoid ESHA, the design and development of accessways and trails shall minimize intrusions to the smallest feasible area and ~~or~~ least impacting routes. As necessary to protect ESHAs, trails shall incorporate measures to control the timing, intensity or location of access (e.g., seasonal closures, placement of boardwalks, limited fencing, etc.).
3. Avoid fence types, roads, and structures that significantly inhibit wildlife movement, especially access to water.
4. 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. 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 including ~~or~~ precise required setbacks, provide a site restoration program where necessary, and provide other information, analysis and modifications appropriate to protect the resource.

[BOS app. 10/2/2012, 11/13/2013, 1/15/2013, 2/26/2013]

(PC app. 12/1/11, 6/28/10)

[Adapted from the concept of Unit II Natural Resources Policy 5.b, p. 74]

C-BIO-3 ESHA Buffers.

1. In areas adjacent to ESHAs and parks and recreation areas, site and design development to prevent impacts that would significantly degrade those areas, and to be compatible with the continued viability of those habitat and recreation areas.
2. Provide buffers for wetlands, streams and riparian vegetation in accordance with C-BIO-19 and C-BIO-24, respectively.
3. Establish buffers for terrestrial ESHA to provide separation from development impacts. Maintain such buffers in a natural condition, allowing only those uses that will not significantly degrade the habitat. Buffers for terrestrial ESHA shall be 50feet, a width that may be adjusted by the County as appropriate to protect the habitat value of the resource, but in no case shall be less than 25 feet. Such adjustment shall be made on the basis of a biological site assessment supported by evidence that includes but is not limited to:
 - a. Sensitivity of the ESHA to disturbance;
 - b. Habitat requirements of the ESHA, including the migratory patterns of affected species and tendency to return each season to the same nest site or breeding colony;
 - c. Topography of the site;
 - d. Movement of stormwater;
 - e. Permeability of the soils and depth to water table;
 - f. Vegetation present;
 - g. Unique site conditions;
 - h. Whether vegetative, natural topographic, or built features (e.g., roads, structures) provide a physical barrier between the proposed development and the ESHA; and
 - i. The likelihood of increased human activity and disturbance resulting from the project relative to existing development.

[BOS app. 10/2/2012, 11/13/2012]

C-BIO-4 Protect Major Vegetation. Require a Coastal Permit for the removal or harvesting of major vegetation other than for agricultural purposes. ~~Coastal Permits shall allow the management or removal of major vegetation where necessary to minimize risks to life and property or to promote the health and survival of surrounding vegetation native to the locale; Such major vegetation removal shall while avoiding adverse impacts to an ESHA, or its buffer, coastal waters, and public views, and shall not conflict with prior conditions of approval, and shall be consistent with Policy C-DES-11 (Minimization of Fuel Modification) and Policy C-EH-25 (Vegetation Management in an ESHA).~~

[BOS app. 10/2/2012]

(PC app. 2/13/12, 1/23/12, 6/28/10)

~~[Adapted from Unit I Habitat Protection Policy 22, p. 34, and Interim County Code Section 22.56.055]~~

Program C-BIO-4.b Integrated Planning for Fire Risk, Habitat Protection, and Forest Health. Develop a Coastal Permit process that protects coastal resources and allows for expedited review of projects related to the management or removal of major vegetation to minimize risks to life and property or to promote the health and survival of surrounding vegetation native to the locale.

(PC app. 1/23/12)

~~[New Program, not in Unit I or II]~~

C-BIO-5 Ecological Restoration. Encourage the restoration and enhancement of degraded ESHAs and the creation of new ESHAs, and streamline regulatory processes whenever possible to facilitate the successful completion of restoration projects.

(PC app. 12/1/11, 6/28/10)

[New policy, not in Unit I or II]

Program C-BIO-5.a Determine Locations

of ESHAs. Continue to update the process for determining whether projects are within or adjacent to ESHAs. The process shall continue to be based on the best available scientific and geographic information and assure an adequate level of review commensurate with the nature and scope of the project and the potential existence of an ESHA.

(PC app. 12/1/11, 6/28/10)

[New program, not in Unit I or II]

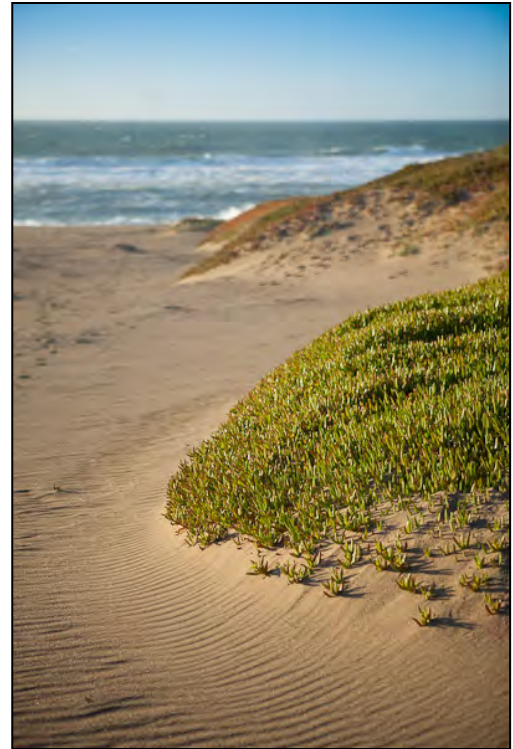
Program C-BIO-5.b “Safe Harbor” for Expansion

of ESHA. Consider a future work item to encourage the expansion of ESHAs by establishing policies, procedures and criteria that would allow such enhancements and protect sensitive resources while maintaining pre-existing buffers. The size of any buffer designated as a result of this program would not be a precedent for the size of any buffer on any other development site. This program would lead to policies and implementing measures that would be subject to review and certification as an amendment to the LCP.

[BOS app. 10/2/2012, 11/13/2012]

(PC app. 1/23/12, 12/1/11, 6/28/10)

[New program, not in Unit I or II]



C-BIO-6 Invasive Plants. Where feasible, require the removal of non-native, invasive plant species such as pampas grass, brooms, iceplant, thistles and other invasive plant species on the list maintained by the California Invasive Plant Council in the areas of development and revegetate those areas with native plants as specified in Coastal Permit approvals. Ensure that required landscaping avoids use of non-native, invasive trees and plants in accordance with Policy C-DES-9 Landscaping. This policy does not apply to agricultural crops and pastures.

[BOS app. 10/2/2012]

(PC app. 12/1/11, 1/24/11)

[Adapted from Unit I Habitat Protection Policy 28, p. 34]

C-BIO-7 Coastal Dunes. Prohibit development in coastal dunes to preserve dune formations, vegetation, and wildlife habitats. Prevent overuse in dune areas by mechanisms such as restricting parking, and directing pedestrian traffic through signage and sand fencing to areas capable of sustaining increased use. Prohibit motor vehicles in dune areas except for emergency purposes, and; prohibit motor vehicles in non-dune beach areas except for emergency and essential maintenance purposes and where previously coastal permitted.

[BOS app. 10/2/2012, 11/13/2012, 1/15/2013]

(PC app. 2/13/12, 12/1/11, 6/28/10)

[Adapted from Unit II Natural Resources Policy 5.a, p. 74]

C-BIO-8 Stringline Method of Preventing Beach Encroachment. In a developed area where most lots are developed and where there are relatively few vacant lots, no part of a proposed new development (other than an allowable shoreline protective device), including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjacent structures. Enclosed living space in a new unit or addition shall not extend farther seaward than a second line drawn between the most seaward portions of the enclosed living space of the adjacent structures.

[BOS app. 10/2/2012]

[New policy, not in Unit I or II]

C-BIO-9 Stinson Beach Dune and Beach Areas. Prohibit development that would adversely impact the natural sand dune formation and sandy beach habitat in the areas west of the paper street Mira Vista and the dry sand areas west of the Patios. Prohibit development west of Mira Vista, including erection of fences, signs, or other structures, to preserve the natural dune habitat values, vegetation and contours, as well as the natural sandy beach habitat. Continue to pursue a land trade between the lots seaward of Mira Vista and the street right-of-way to more clearly establish and define the public beach boundaries ~~between public and private beach areas.~~

Site development of other shorefront lots within the Stinson Beach and Seadrift areas outside of the natural sand dune formations, consistent with LUP Policy C-BIO-7 (Coastal Dunes). Where no dunes are evident, any new development on shorefront lots shall be set back behind the first line of terrestrial vegetation ~~to the maximum extent feasible~~ as far as is necessary to demonstrate required stability and hazards protection per Policy C-EH-2, in order to minimize avoid the need for protective works, protect sandy beach habitat, and provide a buffer area between private and public use areas to protect both the scenic and visual character of the beach, and the public right of access to the use and enjoyment of ~~dry~~ sand areas.

~~[BOS app. 11/13/2012, 1/15/2013]~~

~~(PC app. 12/1/11, 6/28/10)~~

~~*[Adapted from Unit I Natural Dune and Sandy Beach Protection Policies 19 and 20, p. 29]*~~



C-BIO-10 Roosting and Nesting Habitat.

Prohibit the alteration or removal of groves of trees that provide colonial nesting and roosting habitat for monarch butterflies or other wildlife, except where the trees pose a threat to life or property.

~~[BOS app. 10/2/2012]~~

~~(PC app. 12/1/11, 6/28/10)~~

~~*[Adapted from Unit I Habitat Protection Policy 22, p. 34]*~~

C-BIO-11 Development Adjacent to Roosting and Nesting Habitat.

Development adjacent to wildlife nesting and roosting areas shall

be set back a sufficient distance to protect against disruption in nesting and roosting activities and designed to avoid impacts on the habitat area. Time such development activities so that disturbance to nesting and breeding wildlife is ~~minimized~~ avoided. To the extent feasible, use native vegetation for landscaping.

~~(PC app. 12/1/11, 6/28/10)~~

~~*[Adapted from Unit I Habitat Protection Policy 23, p. 34]*~~

Program C-BIO-11.a Grassy Uplands Surrounding Bolinas Lagoon. Collect and evaluate data and studies to determine the habitat values of upland grassland feeding areas around Bolinas Lagoon for shorebirds, and develop effective policies to protect these areas against significant disruption of habitat values. Limited agricultural use of these lands may be permitted consistent with all other applicable policies.

[BOS app. 10/2/2012]

(PC app. 12/1/11, 1/24/11)

[Adapted from Unit I Habitat Protection Policy 26, p. 34]

C-BIO-14 Wetlands. Preserve and maintain wetlands in the Coastal Zone as productive wildlife habitats and water filtering and storage areas, and protect wetlands against significant disruption of habitat values. Prohibit grazing or other agricultural uses in a wetland, except for ongoing agricultural activities in those areas used for such activities prior to April 1, 1981, the date on which Marin's LCP was first certified.

~~Where there is evidence that a wetland emerged primarily from agricultural activities (e.g., livestock management, tire ruts, row cropping) and does not provide habitat for any species that meet the definition of ESHA, such wetland may be used and maintained for agricultural purposes and shall not be subject to the buffer requirements of C-BIO-19 (Wetland Buffers).~~

[BOS app. 10/2/2012, 11/13/2012]

(PC app. 2/13/12, 1/23/12, 6/28/10)

[Adapted from Unit II Natural Resources Policy 4 (a—e), p. 74]

C-BIO-15 Diking, Filling, Draining and Dredging. Diking, filling, draining and dredging of coastal waters can have significant adverse impacts on water quality, marine habitats and organisms, and scenic features. Limit strictly the diking, filling, and dredging of open coastal waters, wetlands, and estuaries to the following purposes:

1. New or expanded commercial fishing facilities.
2. Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
3. Incidental public service purposes, including burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
4. Mineral extraction, including sand for restoring beaches, except in ESHAs.
5. Restoration purposes.
6. Nature study, aquaculture, or similar resource-dependent activities.
7. Excluding wetlands, new or expanded boating facilities and the placement of structural pilings for public recreation piers that provide public access and recreational opportunities may be permitted.
8. In the Esteros Americano and de San Antonio, limit any alterations to those for the purposes of scientific study and restoration.

[BOS app. 11/13/2012, 7/30/2013]

(PC app. 12/1/11, 1/24/11)

[Adapted from Unit II Diking, Filling and Dredging Policies 1 and 2, p. 136]

C-BIO-17 Conditions and Standards for Diking, Filling, Draining, and Dredging. Diking, filling, draining or dredging may be permitted for the purposes specified in policy C-BIO-15 above provided that all of the following conditions and standards are met:

1. There is no feasible less environmentally damaging alternative.
2. Mitigation measures have been provided in accordance with Policy C-BIO-21 (Wetland Impact Mitigation) in order to minimize adverse environmental effects.
3. The activities are planned, scheduled, and carried out to avoid significant disruption to marine and wildlife habitats, fish and bird breeding and migrations, and water circulation.
4. The need for both initial and maintenance dredging shall be minimized by careful design and location of facilities with respect to existing water depths, water circulation, siltation patterns, and by efforts to reduce controllable sedimentation.
5. In estuaries and wetlands, the diking, filling, or dredging shall maintain or enhance the functional capacity of the wetland or estuary.

[BOS app. 10/2/2012]

(PC app. 12/1/11, 6/28/10)

[Adapted from Unit II Diking, Filling and Dredging Policy 3, p. 137]

C-BIO-18 Disposal of Dredged Materials. Require the disposal of dredged sediments to conform to the following standards:

1. The dredged materials disposal site has been approved by all relevant agencies.
2. Disposal of dredged materials shall be planned and carried out to avoid disruption to marine and wildlife habitats and water circulation.
3. Dredged materials suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.
4. The disposal of dredged materials shall conform to the most recently approved dredging requirements promulgated or adopted by the State or Regional Water Quality Control Board.

[BOS app. 10/2/2012]

(PC app. 12/1/11, 6/28/10)

[Adapted from Unit II Diking, Filling and Dredging Policy 4, p. 137]

C-BIO-19 Wetland Buffers. Consistent with Policy C-BIO-3.1 (ESHA Buffers), maintain a buffer area, a minimum of 100 feet in width, in a natural condition along the periphery of all wetlands. A wider buffer may be required based on the results of a site assessment, ~~if such an assessment is determined to be necessary, and the site assessment concludes that evidences~~ that a buffer greater than 100 feet in width is necessary to protect wetland resources from the impacts of the proposed development, including construction and post-construction impacts. No development shall be permitted within the wetland buffer, unless such development is authorized by C-BIO-2 (ESHA Protection), C-BIO-14 (Wetlands), C-BIO-15 (Diking, Filling, Draining and Dredging), or C-BIO-20 (Wetland Buffer Adjustments).

[BOS app. 10/2/2012, 11/13/2012]

(PC app. 12/1/11, 6/28/10)

[Adapted from Unit I Lagoon Protection Policy 18, p. 28, and Unit II Natural Resources Policy 4.d, p. 74]

C-BIO-20 Wetland Buffer Adjustments and Exceptions.

1. A ~~Coastal Permit that requires~~ a buffer adjustment to less than 100 feet may be considered only if it conforms with zoning and:

- a. It is proposed on a legal lot of record located entirely within the buffer; or
 - b. It is demonstrated that permitted development cannot be feasibly accommodated entirely outside the required buffer; or
 - c. It is demonstrated that the permitted development outside the buffer would have greater impact on the wetland and the continuance of its habitat than development within the buffer; or
 - d. The wetland was constructed out of dry land for the treatment, conveyance or storage of water, its construction was authorized by a coastal permit (or pre-dated coastal permit requirements), it has no habitat value, and it does not affect natural wetlands.
2. A buffer adjustment may be granted only if supported by the findings of a site assessment which demonstrate that the adjusted buffer, in combination with incorporated siting, design or other mitigation measures, will prevent impacts that significantly degrade the wetland and will be compatible with the continuance of the wetland ESHA.
 3. A Coastal Permit authorizing a buffer adjustment shall require measures that create a net environmental improvement over existing conditions, in addition to what is otherwise required by minimum applicable site development standards. Such measures shall be commensurate with the nature and scope of the project and shall be determined at the site level, supported by the findings of a site assessment or other technical document. Work required in accordance with this Policy shall be completed prior to occupancy. Appropriate measures may include but are not limited to:
 - a. Retrofitting existing improvements or implementing new measures to reduce the rate or volume of stormwater run-off and improve the quality of stormwater run-off (e.g., use of permeable “hardscape” materials and landscape or site features designed to capture, absorb and filter stormwater; etc.);
 - b. Elimination of on-site invasive species;
 - c. Increasing native vegetation cover (e.g., expand continuous vegetation cover; reduce turf areas; provide native groundcover, shrubs and trees; etc.);
 - d. Reduction in water consumption for irrigation (e.g., use of drought-tolerant landscaping or high efficiency irrigation systems, etc.); and
 - e. Other measures that reduce overall similar site-related environmental impacts.
 1. The buffer shall not be adjusted to a distance of less than 50 feet in width from the edge of the wetland.

[BOS app. 10/2/2012, 11/13/2012, 1/15/2013, 2/26/2013]

(PC app. 12/1/11, 6/28/10)

[New policy, not in Unit I or II]

C-BIO-21 Wetland Impact Mitigation. Where any dike and fill development is permitted in wetlands in conformity with this section, require mitigation measures to include, at a minimum, either acquisition of required areas of equal or greater biological productivity or opening up equivalent areas to tidal action; provided, however, that if no appropriate restoration site is available, an in-lieu fee sufficient to provide an area of equivalent productive value or surface areas shall be dedicated to an appropriate public agency, or such replacement site shall be purchased before the dike or fill development may proceed. A minimum ratio of 2:1 in area is required for on-site mitigation, a minimum ratio of 3:1 is required for off-site mitigation, and a minimum ratio of 4:1 is required for an in-lieu fee. Mitigations shall meet the following criteria:

1. No net losses shall occur in wetland acreage, functions, or values. This ~~should~~ includes both direct impacts on wetlands and essential buffers, and consideration of potential indirect effects of

development due to changes in available surface water and nonpoint water quality degradation. Detailed review of the adequacy of a proposed mitigation plan shall be performed as part of any ~~required~~ environmental and permit review of the proposed development project to allow for a thorough evaluation of the anticipated loss, as well as the replacement acreage, functions, and values.

2. Restoration of degraded wetlands is generally preferred to creation of new replacement wetlands, due to the greater likelihood of success.
3. Mitigation shall be implemented prior to and/or concurrently with the project activity causing the potential adverse impact to minimize any short-term loss and modification to wetlands.
4. An area of adjacent upland habitat shall be protected to provide an adequate buffer for wetland functions and values. Development shall be set back the minimum distance specified in Policy C-BIO-19 (Wetland Buffers) to create this buffer, unless an adjustment is allowed and appropriate mitigation is provided where necessary, pursuant to Policy C-BIO-20 (Wetland Buffer Adjustments).
5. Mitigation sites shall be permanently protected and managed for open space and wildlife habitat purposes.
6. Mitigation projects must to the extent feasible minimize the need for ongoing maintenance and operational manipulation (e.g., dredging, artificial water-level controls, etc.) to ensure long-term success. Self-sustaining projects with minimal maintenance requirements constitute the primary objective and are encouraged.
7. All plans to mitigate or minimize adverse impacts to wetland environments shall include provisions to monitor the success of the restoration project. The measures taken to avoid adverse impacts may be modified if the original plans prove unsuccessful. Performance bonds shall be required for all mitigation plans involving habitat creation or enhancement, including the cost of monitoring for at least five years post-completion, or as long as necessary to ensure success criteria are achieved.
8. Mitigation must be commensurate with adverse impacts of the wetland alteration and consist of providing similar values and greater wetland acreage than those of the wetland area adversely affected. All restored or created wetlands shall be provided at the minimum replacement ratio specified in this Policy (C-BIO-21) and shall have the same or increased habitat values as the wetland proposed to be ~~destroyed~~ impacted.

Such mitigation measures shall not be required for temporary or short-term fill or diking; provided that a bond or other evidence of financial responsibility is provided to assure that restoration will be accomplished in the shortest period of time not to exceed 12 months.

~~[BOS app. 10/2/2012]~~

~~(PC app. 12/1/11, 6/28/10)~~

~~[New policy, not in Unit I or II]~~

C-BIO-22 Tomales Bay Shoreline. As part of the application for a coastal permit on any parcel adjacent to Tomales Bay, except where there is no evidence of wetlands, require the applicant to submit supplemental



biological information prepared by a qualified biologist at a scale sufficient to identify the extent of the existing wetlands, based on Section 30121 of the Coastal Act and the area of the proposed buffer areas.

(PC app. 12/1/11, 6/28/10)

[Adapted from Unit II Natural Resources Policy 4.e, p. 74]

C-BIO-23 Marine Resources. Maintain, enhance, and, where feasible, restore marine resources. Provide special protection to areas and species of special biological or economic significance. Carry out uses of the marine environment in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

(PC app. 12/1/11, 6/28/10)

[New policy, not in Unit I or II]

C-BIO-24 Coastal Streams and Riparian Vegetation.

1. Stream alterations. Limit channelizations, diversions, dams, or similar substantial alterations of coastal streams to the following purposes:
 - a. Necessary water supply projects where no other less environmentally damaging method of water supply is feasible;
 - b. Flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; or
 - c. Developments where the primary function is the improvement of fish and wildlife habitat.

Before any such substantial alterations that would significantly disrupt the habitat value of a stream are permitted, minimum flows necessary to maintain fish habitat and water quality, and to protect downstream resources (e.g. riparian vegetation, groundwater recharge areas, receiving waters, spawning habitats, etc.) and downstream users shall be determined by the Department of Fish and Wildlife and the Division of Water Rights of the State Water Resources Control Board. Prohibit new impoundments which, individually or cumulatively, would decrease streamflows below the minimum.

2. Access and Utility Crossings. Access and utility crossings shall be accomplished by clear span bridging, unless other methods are determined to be less disruptive to the stream and/or riparian ESHA. Wherever possible, shared bridges or other crossings shall be used to provide access and utilities to groups of lots covered by this policy. Bridge abutments shall be located outside stream channels and designed to minimize disturbance of riparian vegetation.
3. Conditions. Minimize the alteration of streams allowed for the purposes listed in (1) and (2) above in order to protect streamwater quality and the volume and rate of streamflow. Require all developments to incorporate the best mitigation measures feasible, including erosion and runoff control measures, and re-vegetation of disturbed areas with native species. Minimize the disturbance of riparian vegetation and require revegetation.

[BOS app. 10/2/2012, 11/13/2012]

(PC app. 12/1/11, 1/24/11)

[Adapted from Unit I Stream Protection Policies 1 and 2, p. 19, and Unit II Natural Resources Policy 3, p. 72]

C-BIO-“TBD” Coastal Stream and Riparian Vegetation Buffers. Consistent with Policy C-BIO-3.1 (ESHA Buffers), establish buffers to protect streams from the impacts of adjacent uses including development impacts from construction and post-construction activities, and maintain such buffers in a

natural condition. The buffer shall be the wider of the following on both sides of the stream: (a) the area 50 feet landward from the outer edge of the riparian vegetation, or (b) the area 100 feet landward from the top of the stream banks, or (c) as recommended by the biological site assessment per C-BIO-2. No development shall be permitted in the stream or riparian vegetation buffer unless such development is authorized by C-BIO-2 (ESHA Protection), C-BIO-24 (Coastal Streams and Riparian Vegetation) or C-BIO-25 (Stream and Riparian Buffer Adjustments).

[BOS app. 10/2/2012, 11/13/2012]

(PC app. 12/1/11, 1/24/11)

[Adapted from Unit I Stream Protection Policy 3, p. 19, and Unit II Natural Resources Policy 3, p. 72]

C-BIO-25 Stream Buffer Adjustments and Exceptions.

1. A ~~Coastal Permit that requires~~ a buffer adjustment to less than that required by C-BIO-TBD may be considered only if it conforms with zoning and:
 - a. It is proposed on a legal lot of record located entirely within the buffer; or
 - b. It is demonstrated that permitted development cannot be feasibly accommodated entirely outside the required buffer; or
 - c. It is demonstrated that the permitted development outside the buffer would have greater impact on the stream or riparian ESHA and the continuance of its habitat than development within the buffer.
2. A buffer adjustment may be granted only if supported by the findings of a site assessment which demonstrate that the adjusted buffer, in combination with incorporated siting, design or other mitigation measures, will prevent impacts that significantly degrade the stream or riparian vegetation, and will be compatible with the continuance of the stream/riparian ESHA.
3. A Coastal Permit authorizing a buffer adjustment shall require measures that create a net environmental improvement over existing conditions, in addition to what is otherwise required by minimum applicable site development standards. Such measures shall be commensurate with the nature and scope of the project and shall be determined at the site level, supported by the findings of a site assessment or other technical document. Work required in accordance with this Policy shall be completed prior to occupancy. Appropriate measures may include but are not limited to:
 - a. Retrofitting existing improvements or implementing new measures to reduce the rate or volume of stormwater run-off and improve the quality of stormwater run-off (e.g., permeable “hardscape” materials and landscape or site features designed to capture, absorb and filter stormwater);
 - b. Elimination of on-site invasive species;
 - c. Increasing native vegetation cover (e.g., expand continuous riparian vegetation cover; reduce turf areas; provide native groundcover, shrubs and trees; etc.);
 - d. Improvement of streambank or in-stream conditions (e.g., ~~replace~~ remove hard bank armoring, slope back streambanks, create inset floodplains, install large woody debris structures, etc.), in order to restore habitat and more natural stream conditions;
 - e. Reduction in water consumption for irrigation (e.g., use of drought-tolerant landscaping or high efficiency irrigation systems, etc.);
 - f. Other measures that reduce overall similar site-related environmental impacts.
4. The buffer shall not be adjusted to a distance of less than 50 feet in width from the edge of the stream/riparian ESHA.

[BOS app. 10/2/2012, 11/13/2012, 1/15/2013, 2/26/2013]

(PC app. 2/13/12, 12/1/11, 6/28/10)

[Adapted from Unit I Stream Protection Policy 4, p. 19]

C-BIO-26 Diversions Outside the Coastal Zone. Require that the impacts from diversion projects, especially on the two major tributaries to Tomales Bay, Walker and Lagunitas Creeks, be fully studied through the CEQA and coastal permit process before they are permitted to proceed and in all cases, require mitigation and enhancement measures to ensure that coastal resources influenced by freshwater inflows are not significantly damaged.

(PC app. 12/1/11, 1/24/11)

~~*[Adapted from Unit II Natural Resources Policy 3.e, p. 73]*~~

C-BIO-27 Federal Projects. Federal projects which require the modification or alteration of natural resources shall be evaluated by the Coastal Commission through the consistency review process.

(PC app. 12/1/11, 6/28/10)

~~*[Adapted from Unit II Federal Parklands Policy 3, p. 61]*~~

C-BIO-28 California Parks and Recreation. Support and encourage the environmental conservation, land and easement acquisition, and habitat restoration efforts of the California Department of Parks and Recreation.

(PC app. 12/1/11, 6/28/10)

~~*[New policy, not in Unit I or II]*~~

C-BIO-29 Marin County Parks. Support and encourage the environmental conservation, land and easement acquisition, and habitat restoration efforts of the Marin County Parks Department. In particular, conservation activities related to beach areas, lagoons, wetlands, streams, existing and potential boat launching sites, recreational areas, and Tomales Bay and its shoreline are considered a high priority in the Coastal Zone.

[BOS app. 10/2/2012]

(PC app. 12/1/11, 6/28/10)

~~*[New policy, not in Unit I or II]*~~



Environmental Hazards (EH)

Background

Marin County's shoreline, like all of California's coast, is a highly dynamic place. The coast is subject to forces that include shoreline erosion, storms and waves, long-term sea level rise, tsunamis, and potential seismic events, all of which represent hazards for existing and new development (see Maps 9 – 15). Coastal zone development, whether located at sea level, on a bluff, or farther inland, is vulnerable to one or more of these hazards.

Significant portions of California's coastline have been armored with rock revetments, seawalls, or other shoreline protective devices. Marin County's shoreline includes relatively few such devices, but shoreline armoring is not absent from the County's coastal zone. Although shoreline protective devices may offer protection to existing homes and other structures from ocean waves and storms, the devices can have negative impacts on recreational beach uses, scenic resources, and the natural supply of sand to other shoreline areas.

Sea level rise is expected to lead to increased erosion, loss of coastal wetlands, permanent or periodic inundation of low-lying areas, increase in coastal flooding, and salt water intrusion into stormwater systems and aquifers. Structures located along bluffs susceptible to erosion and in areas that already flood during high tides will likely experience an increase in these hazards from accelerated sea level rise. Sea level rise also threatens the integrity of roads and other infrastructure (see Map 15 - Sea Level Rise).

Coastal Act policies provide that new development shall minimize risks to life and property in hazardous areas. Furthermore, new development shall assure stability and structural integrity and not create or contribute significantly to geologic instability or other hazards. Coastal Act policies recognize that

shoreline protective devices ~~are~~ can be appropriate in certain instances, to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion. Under the Coastal Act, such devices, when allowable, however, must be designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Local Coastal Program (LCP) policies would enhance the safety of residents and visitors in potentially hazardous areas, while allowing carefully designed and sited development to proceed. The LCP acknowledges the threat of sea level rise and supports appropriate responses, while recognizing that sea level rise is a global rather than a purely local issue. The impacts of sea level rise will vary according to local factors, such as shoreline characteristics, land movement driven by plate tectonics, and local wind patterns. Strategies to reduce impacts are most appropriately designed and implemented at the local level.

Policies

C-EH-1 Safety of New Development. Ensure that new development ~~during its economic life (100 years)~~ is safe from, and does not contribute to, geologic or other hazards for a period of at least 100 years. (PC app. 12/1/11, 3/16/09)

~~[Adapted from Unit II New Development and Land Use Policy 5.a, p. 207]~~

C-EH-2 Avoidance of ~~Environmental~~ Geologic and Other Hazards. Require applicants for development in areas potentially subject to geologic or other hazards ~~as mapped by the County at the time of coastal permit application~~, (including Alquist-Priolo earthquake hazards zones, and areas subject to tsunami runup, landslides, liquefaction, episodic and long-term shoreline retreat (including beach or bluff erosion), high seas, ocean waves, storms, tidal scour, flooding, steep slopes averaging greater than 35%, unstable slopes regardless of steepness, and flood hazard areas, ~~or including those~~ areas potentially inundated by accelerated sea level rise, to demonstrate that:

1. The area of construction is stable for development for a minimum of 100 years,
2. The development will not create a hazard or diminish the stability of the area, and
3. For shoreline and/or coastal bluff development, see Policy C-EH-5~~The development will not require the construction of shoreline protective devices during its economic life (100 years).~~

The County's hazards maps can be used as a resource for identification of hazard areas; however, absence of mapping alone cannot be considered absence of hazard and local site conditions must be examined using the best available science.

~~(PC app. 12/1/11, 3/16/09)~~

~~[Adapted from Unit II New Development and Land Use Policy 5.a, p. 207]~~

C-EH-3 Applicant's Assumption of Risk. As a condition of coastal permit approval for development in hazardous areas, require the applicant to record a document exempting the County from liability for any personal or property damage caused by ~~natural~~ geologic or other hazards on such properties and acknowledging that future shoreline protective devices to protect structures authorized by such coastal permit ~~will not be allowed during the structure's economic life~~ are prohibited.

~~(PC app. 12/1/11, 1/24/11)~~

~~[Adapted from Unit I Shoreline Protection and Hazard Areas Policy 4, p. 41, and Unit II New Development and Land Use Policy 5.a, p. 207]~~

C-EH-4 Seismic Hazard Standards. Require development to meet the seismic safety standards of the Alquist-Priolo Act (Calif. Public Resources Code Section 2621, et seq.).

(PC app. 12/1/11, 5/26/09)

[Adapted from Unit I Shoreline Protection and Hazard Areas Policy 2, p. 41]

C-EH-5 New Shoreline and Blufftop Development.

A. **Blufftop Development.** Ensure that new blufftop development, including coastal redevelopment (see below) and additions to existing structures, is safe from shoreline/bluff retreat and other coastal hazards without a reliance on shoreline protective devices. ~~New structures except as provided for by Policies C-EH-7, C-EH-15, and C-EH-16, and C-EH-19, including accessory structures and infill development (i.e., new development between adjacent developed parcels), new development shall be set back from the shoreline and bluff edge a sufficient distance to reasonably ensure their its stability and structural integrity for a minimum of 100 years the economic life of the development and to eliminate the need for shoreline protective works devices. A coastal hazards analysis shall evaluate the effect of geologic and other hazards at the site to ensure its stability and structural integrity for a minimum of 100 years. Such assurance~~ The coastal hazards analysis shall take the form of include a quantitative slope stability analysis demonstrating a minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer). ~~Such~~ Safety and stability must be demonstrated for the predicted position of the shoreline/bluff following shoreline/bluff recession during the 100-year economic life over at least 100 years of the development. The predicted shoreline/bluff retreat position shall be evaluated considering not only historical shoreline and bluff retreat data, but also acceleration of shoreline and bluff retreat due to continued and accelerated sea level rise, and other climate impacts according to best available science. The effect of any existing shoreline protective devices shall not be factored into the required stability analysis.

B. **Shoreline Development.** New shoreline development (including new development on vacant/undeveloped lots, additions to existing structures, and coastal redevelopment (see below)) shall be set back a sufficient distance from the shoreline to ensure stability and structural integrity for a minimum of 100 years without the need for shoreline protective devices. For coastal redevelopment, if there is insufficient space on a property to feasibly meet the setback requirements, then such development may meet the minimum 100-year stability and structural integrity requirement through setting back as far as feasible in tandem with the use of caisson/pier foundations and elevation (including if elevation of the structure is necessary to meet Federal Emergency Management Agency (FEMA) flood requirements) but no other type of shoreline protective device is allowed. Any approval for new shoreline development shall be accompanied by conditions necessary to achieve compliance with this policy (e.g., appropriate provisions to ensure that all permitted development is relocated and/or removed before shoreline protection (other than caisson/pier foundations and elevation where allowed for redevelopment) is needed). A coastal hazards analysis shall evaluate the effect of geologic and other hazards to ensure stability and structural integrity for the minimum 100 year period, and such analysis shall not factor in the presence of any existing shoreline protective devices. The coastal hazards analysis shall also evaluate the effect of the project over time on coastal resources (including in terms of protecting public access, shoreline dynamics, natural landforms, and public views, including as project impacts continue and/or change over time, including in response to sea-level rise), including in terms of not only the impacts associated with the elevated structure, but also in terms of the effects of related development, such as required ingress/egress to structures and the provision of services (e.g., water, wastewater, etc.). The provisions of this subsection allowing the use of caisson/pier foundations and elevation for shoreline redevelopment in certain circumstances shall apply until April 30, 2017 or until this subsection is amended, whichever occurs first. If a complete LCP amendment to amend this subsection is not submitted as of April 30, 2017 (including

where subsequent withdrawal of such LCP amendment will deem it to have not been submitted), then shoreline redevelopment will no longer be allowed to meet minimum 100-year stability and structural integrity requirements through the use of caisson/pier foundations and elevation. The April 30, 2017 deadline may be extended for good cause by the Executive Director of the Coastal Commission.

C. Coastal Redevelopment. Coastal redevelopment must be found consistent with all applicable LCP policies. Coastal redevelopment is development that is located on top of bluffs or at or near the ocean-sand interface and/or at very low lying elevations along the shoreline that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, and/or (3) demolition of an existing bluff home or other principal structure, or portions thereof, which results in:

(1) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.

(2) Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LUP; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area, taking into consideration previous additions approved on or after the date of certification of the LUP.

(PC app. 12/1/11, 1/25/10)

[Adapted from Unit I Shoreline Protection and Hazard Areas Policy 1, pp. 40-41, and Unit II New Development and Land Use Policy 5.b, p. 207]

C-EH-6 Proper Drainage on Blufftop Parcels.

Ensure that surface and subsurface drainage associated with development of any kind ~~beyond the required bluff edge setback~~ shall not contribute to the erosion of the bluff face or the stability of the bluff itself.

(PC app. 12/1/11, 3/16/09)

[Adapted from Unit II New Development and Land Use Policy 5.e, p. 208]

C-EH-7 New Structures on Bluff Faces. Prohibit ~~additional permanent~~ structures on bluff faces, except for ~~engineered public beach access~~ structures where no feasible alternative means of public access exists. Such structures shall be designed and constructed to be visually compatible with the surrounding area to the maximum extent feasible and to minimize effects on erosion of the bluff face.

(PC app. 12/1/11, 3/16/09)

[New policy, not in Unit I or II]

C-EH-11 Minimum Floor Elevations in the Flood Velocity Zone at Seadrift. For new development within the Seadrift Subdivision located in the special



flood hazard (V zone) as mapped by the Federal Emergency Management Agency, measure the maximum allowable building height from the minimum floor elevation required by the special flood hazard zone designation. Maximum allowable building heights shall protect community character and scenic resources.

~~(PC app. 12/1/11, 1/25/10)~~

~~*[New policy, not in Unit I or II]*~~

C-EH-12 Floor Elevations Requirements for Existing Buildings in Flood Hazard Zones.

Within flood hazard zones as mapped by the Federal Emergency Management Agency, allow existing legal non-conforming buildings that are encroaching into a required yard setback to be raised above the base flood elevation without the need for a variance to setback requirements, as long as the finished floor is not more than 18 inches above the base flood elevation and the extent of the encroachment is not expanded. Maximum allowable building heights shall protect community character and scenic resources.

~~[BOS app. 12/11/2012]~~

~~(PC app. 12/1/11, 1/25/10)~~

~~*[New policy, not in Unit I or II]*~~

Program C-EH-12.a Address Tsunami Potential. Review tsunami wave run-up and inundation maps, ~~when available~~, along with other applicable information to be considered in coastal planning and development.

~~(PC app. 12/1/11, 1/25/10)~~

~~*[New program, not in Unit I or II]*~~

C-EH-13 Shoreline Protective Devices. Discourage shoreline protective devices (~~i.e., shoreline armoring~~) in the Coastal Zone, including encouraging their removal and site restoration where feasible, due to their coastal resource impacts (including visual impacts, obstruction of public access, interference with natural shoreline processes and water circulation, and effects on marine habitats and water quality).

Allow the construction, ~~or reconstruction~~, expansion, and/or replacement of a shoreline protective device, including revetments, breakwaters, groins, seawalls, bluff retention devices, deep piers/caissons, or other artificial structures for coastal erosion control and hazards protection, only if each of the following criteria is met:

1. The shoreline protective device is required to serve a coastal-dependent use or to protect a principal structure, residence, or second residential unit in existence prior to the adoption of the Local Coastal Program (May 13, 1982) or a public beach in danger from erosion.
2. No other non-structural alternative, such as sand replenishment, beach nourishment, or managed retreat is feasible, and the device is the least environmentally damaging feasible alternative.
3. The condition causing the problem is site specific and not attributable to a general erosion trend, or the project reduces the need for a number of individual projects and solves a regional erosion problem.
4. It can be shown that a shoreline protective device will successfully eliminate or mitigate its effects on local shoreline sand supply and that the device will not adversely affect adjacent or other sections of the shoreline.
5. The shoreline protective device will not be located in wetlands or other significant resource or habitat area, and will not cause significant adverse impacts to fish or wildlife.

6. There will be no reduction in public access, use, or enjoyment of the natural shoreline environment, and construction of a shoreline protective device will preserve or provide access to related public recreational lands or facilities.
7. The shoreline protective device will not restrict navigation, mariculture, or other coastal use and will not create a hazard in the area in which it is built.
8. For existing shoreline protective devices that are being reconstructed, expanded, and/or replaced, the coastal permit application shall include a re-assessment of the need for the device, the need for any repair or maintenance of the device, and the potential for removal based on changed conditions. The coastal permit application shall at a minimum include an evaluation of: the age and condition of the existing principal structure being protected; changed geologic site conditions including but not limited to changes relative to sea level rise; and impacts to coastal resources, including but not limited to public access and recreation.
9. The shoreline protective device ~~may~~ shall only be authorized until the time when the existing structure that is protected by such a device: 1) is no longer present; 2) no longer requires armoring; or 3) is redeveloped (i.e. coastal redevelopment pursuant to C-EH-5).
The permittee is required to submit a coastal permit application to remove the authorized shoreline protective device within six months of a determination that the shoreline protective device is no longer authorized to protect the structure it was designed to protect because the structure is no longer present or no longer requires armoring. In the case of coastal redevelopment, removal of the authorized shoreline protective device shall be required prior to construction of the redeveloped structure. for a specified time period depending on the nature of the project and other possible changing conditions. Maintenance beyond the specified time period, modification, or expansion of the approved device shall require approval of an amendment to the Coastal Permit.
10. Shoreline protective devices shall be required to mitigate impacts to shoreline sand supply, public access and recreation, and any other relevant coastal resource impacts in 20-year increments, starting with the building permit completion certification date. Permittees shall apply for a coastal permit amendment prior to expiration of each 20-year mitigation period, proposing mitigation for coastal resource impacts associated with retention of the shoreline protective device beyond the preceding 20-year mitigation period, and such application shall include consideration of alternative feasible mitigation measures in which the permittee can modify the shoreline protective device to lessen its impacts on coastal resources.
11. The shoreline protective device shall be regularly monitored by an engineer or engineering geologist familiar and experienced with coastal structures and processes. Monitoring reports to the County and the Coastal Commission shall be required every five years from the date of coastal permit issuance until coastal permit expiration, which shall evaluate whether or not the shoreline protective device is still required to protect the existing structure it was designed to protect.

~~(PC app. 1/23/12)~~

~~*[Adapted from Unit I Shoreline Protection and Hazard Areas Policy 5, p. 42, and Unit II Shoreline Structure Policies 1 and 2, p. 132]*~~

C-EH-14 Design Standards for the Construction of Shoreline Protective Devices. Ensure that the design and construction of any shoreline protective device shall:

1. Be sited, designed, and treated to blend in visually with the natural shoreline;
2. Respect and integrate into natural landforms to the greatest degree possible;

3. Include mitigation measures to offset any impacts on fish and wildlife resources caused by the project;
4. Minimize and mitigate for the impairment and interference with ~~the natural movement of shoreline~~ sand supply and the circulation of coastal waters;
5. Address the geologic hazards presented by construction in or near Alquist-Priolo earthquake hazard zones;
6. Protect, and enhance where feasible, public recreational access as much as possible, including by minimizing the displacement of beach; and
7. If necessary, be combined with efforts to control erosion from surface and groundwater flows.

(PC app. 12/1/11, 5/26/09)

[Adapted from Unit II Shoreline Structures Policy 5, p. 133]

C-EH-15 ~~Temporary Minor Accessory Structures in Hazardous Areas.~~ Minor accessory structures, which are structures that do not require structural foundations, such as decks, patios, and walkways (and not including structures such as guesthouses, pools, tennis courts, cabanas, and septic systems, etc.) may be allowed within the shoreline/blufftop setback established by C-EH-5 provided they meet all of the following criteria:

1. Such accessory structures shall only be allowed if consistent with all other applicable LCP policies.
2. Such accessory structures shall be sited and designed to be easily relocatable and/or removable without significant damage to shoreline and/or bluff areas, and shall be sited no closer than 5 feet from the blufftop edge.
3. Such accessory structures shall be relocated and/or To removed the accessory structure(s) if and affected areas restored to natural conditions when threatened by erosion, geologic instability, or other coastal hazards, including as determined by the Marin County Division of Building and Safety, to be threatened imminently by shoreline erosion, and
4. That a No shoreline protective device will be allowed for the sole purpose of protecting the such accessory structure(s).

(PC app. 12/1/11, 5/26/09)

[New policy, not in Unit I or II]

C-EH-16 ~~Shoreline Public Access Facilities and Bluff Stability in Hazardous Areas.~~ Allow public Shoreline and bluff area public access facilities, including walkways, overlooks, stairways and/or ramps, may be allowed within the shoreline/blufftop setback established by C-EH-5 provided they meet all of the following criteria:

1. Such public access facilities shall only be allowed if consistent with all other applicable LCP policies.
2. Such public access facilities shall be sited and designed to be easily relocatable and/or removable without significant damage to shoreline and/or bluff areas.
3. Such public access facilities shall only be allowed when they will not cause, expand, or accelerate instability of a bluff.

~~(PC app. 12/1/11, 1/25/10)~~

~~*[New policy, not in Unit I or II]*~~

C-EH-17 Creation of New Parcels of Land that Would Require Protection Against Coastal Erosion and Other Hazards. Prohibit the division of land (including lot line adjustments) near the shoreline, including along the shoreline and bluffs, and including abutting the ocean, bays, lagoons, or other coastal water bodies, unless the new or reconfigured parcels can be developed safe from geologic and other hazards for a minimum of 100 years, and unless shoreline protective devices are prohibited to protect development on the resultant parcels with structures that will not require a shoreline protective device during their economic life.

~~(PC app. 12/1/11, 5/26/09)~~

~~*[New policy, not in Unit I or II]*~~

C-EH-18 Re-Establishment of Dunes in Conjunction with Shoreline Protective Devices. To minimize visual and ~~sand transport~~ shoreline sand supply impacts, require that any permit granted to construct a shoreline protective device shall include the re-establishment of the former dune contour and appearance, where feasible.

~~(PC app. 12/1/11, 5/26/09)~~

~~*[Adapted from Unit I Shoreline Protection and Hazard Areas Policy 6, p. 42]*~~

C-EH-19 Maintenance Needs for the Shoreline Protective Device at Seadrift. Refer inquiries regarding permit requirements for maintenance of the rock revetment as permitted by Coastal Commission permit #A-1-MAR-87-235-A issued August 31, 1994 to the Coastal Commission. ~~Extraordinary maintenance includes placement of any material on or adjacent to the seaward face of the revetment (other than replacement of dislodged material as described below) and/or which expands the height or length of the revetment. No coastal permit shall be required for ordinary maintenance of the revetment, which is defined to include removal from the beach of any rocks or other material which become dislodged from the revetment or moved seaward from the identified footprint, replacement of such materials on the revetment, minor placement of sand over the revetment from a source other than the Bolinas Sandspit Beach, planting of dune grass on the revetment, and similar activities. (For more information, see the Seadrift settlement agreement in Appendix 9.)~~

~~(PC app. 12/1/11, 5/26/09)~~

~~*[New policy, not in Unit I or II; taken from the Seadrift settlement agreement]*~~

C-EH-20 Advance Planning for Emergency Shoreline Protection Needs. Encourage property owners subject to ocean-front erosion hazards to develop responses to such hazards prior to emergency conditions. Where contiguous properties are subject to generally similar erosion hazards, joint program development should occur.

~~(PC app. 12/1/11, 5/26/09)~~

~~*[Adapted from Unit I Shoreline Protection and Hazard Areas Policy 8, p. 42. This policy also carries forward the concept of Unit I Shoreline Protection and Hazard Areas Policy 7, p. 42]*~~

C-EH-21 Emergency Shoreline Protective Devices in County Coastal Permit Jurisdiction. Upon receipt of a request for an emergency shoreline protective device within the County's coastal permit jurisdiction, notify the Coastal Commission ~~if time allows~~. Approve emergency shoreline protective devices on a temporary basis only and require removal of the structure unless a regular coastal permit is approved for ~~permanent placement~~ retention of the structure. A complete coastal permit application must be submitted within 60 days following construction of the shoreline protective device. If dunes are present on the project site, require that re-establishment of the former dune contour and appearance shall occur within 60 days following construction of a shoreline protective device.

~~(PC app. 12/1/11)~~

~~[Adapted from Unit I Shoreline Protection and Hazard Policy 9, p. 43]~~

C-EH-22 Sea Level Rise and Marin's Coast. The best available and most recent scientific information with respect to the effects of long-range sea level rise shall be considered in the preparation of findings and recommendations for all geologic, geotechnical, hydrologic and engineering investigations, including the coastal hazards analysis identified in C-EH-5. Support scientific studies that increase and refine the body of knowledge regarding potential sea level rise in Marin, and possible responses to it.

~~(PC app. 12/1/11, 1/24/11)~~

~~[New policy, not in Unit I or II; adapted from CWP Policy EH 1.2, p. 2-73]~~

Program C-EH-22.a Research and Respond to the Impacts of Sea Level Rise on Marin County's Coastal Zone Shoreline.

1. Continue to gather information on the effects of sea level rise on Marin County's Coastal Zone shoreline, including identifying the most vulnerable areas, structures, facilities, and resources; specifically areas with priority uses such as public access and recreation resources, including the California Coastal Trail, Highway 1, significant ESHA such as wetlands or wetland restoration areas, open space areas where future wetland migration would be possible, and existing and planned sites for critical infrastructure.

Any vulnerability assessment shall use best available science and multiple scenarios including best available scientific estimates of expected sea level rise, such as by the Ocean Protection Council [e.g. 2011 OPC Guidance on Sea Level Rise], Nation Research Council, Intergovernmental Panel on Climate Change, and the West Coast Governors Association.

2. Based on information gathered over time, propose additional policies and other actions for inclusion in the LCP in order to address the impacts of sea level rise. As applicable, recommendations may include such actions as:
 - a. relocation of existing or planned development to safer locations, working with entities that plan or operate infrastructure, such as Caltrans;
 - b. changes to LCP land uses, and siting and design standards for new development, to avoid and minimize risks;
 - c. changes to standards for wetland, ESHA, and stream buffers and setbacks;
 - d. changes to standards for erosion rates;
 - e. modifications to the LCP Access Component to ensure long term protection of the function and connectivity of existing public access and recreation resources; and
 - f. modifications to the Regional Transportation Plan.

~~(PC app. 12/1/11, 1/25/10)~~

~~[New program, not in Unit I or II]~~

Program C-EH-22.b Study Bluff Shoreline Retreat. The County shall seek funds for a study to identify threats of ~~bluff~~ shoreline retreat, including bluff retreat, taking into account accelerated sea level rise.

~~(PC app. 12/1/11, 1/24/11)~~

~~[Adapted from Unit I Shoreline Protection and Hazard Areas Policy 3, p. 41]~~

C-EH-23 New Development and Fire Safety. Coastal Permit applications shall demonstrate that the development meets all applicable fire safety standards. Site and design new development to minimize required initial and future fuel modification and brush clearance in general, and to avoid such activities within ESHA and ESHA buffers on site and on neighboring property, including parkland.

(PC app. 12/1/11, 1/24/11)

[Adapted from Unit II Public Services Policy 2.f, p. 189]

C-EH-24 Permit Exemption for Replacement of Structures Destroyed by Disaster. Exempt from the requirement for a coastal permit the replacement of any structure, other than a public works facility, destroyed by a disaster, if the replacement structure:

1. Conforms to applicable existing zoning requirements;
2. Is for the same use as the destroyed structure;
3. Does not exceed the floor area of the destroyed structure by more than 10 percent or 500 square feet, whichever is less, or the height or bulk of the destroyed structure by more than 10 percent (the applicant must provide proof of pre-existing height and bulk); and
4. Is sited in the same location on the affected property as the destroyed structure, ~~unless the Director determines that relocation is warranted because of proximity to coastal resources.~~

(PC app. 2/13/12, 12/1/11, 3/16/09)

[Adapted from Unit II New Development and Land Use Policy 8.f(1), p. 216]

C-EH-25 ~~Vegetation Management in Environmentally Sensitive Habitat Area Existing Development and Fire Safety.~~ ~~Minimize risks to life and property in ESHAs from uncontrolled fire and disease by allowing for the management or removal of major vegetation. Removal of major vegetation around existing development for fire safety purposes shall only be allowed upon a finding that fuel modification and brush clearance techniques are required in accordance with applicable fire safety regulations and are being carried out in a manner which reduces impacts to the maximum feasible extent. In addition to the foregoing requirements, removal of major vegetation that constitutes ESHA, or is in an ESHA, or is in an ESHA buffer, shall only be allowed for fire safety purposes if there are no other feasible alternatives for achieving compliance with required fire safety regulations and all ESHA and related impacts are mitigated as near as possible to the impact area and in a manner that leads to no net loss of ESHA resource value.~~

(See also C-BIO-3, C-BIO-19 and C-BIO-24 (ESHA, Wetland, Stream Buffers), and C-DES-11 (Minimization of Fuel Modification).)

{BOS app. 1/15/2013}

(PC app.

[New not in Unit

*1/23/12)
policy,
I or II]*





Mariculture (MAR)

Background

Mariculture represents an important economic activity in the Marin County Coastal Zone, and its products such as oysters and other shellfish provide an important source of protein. Locally raised shellfish, along with local agricultural products, draw visitors to the area and makes the Coastal Zone a more desirable place to live and visit. Oyster farms in Marin County are abundant and expansive, providing local jobs and acting as a major source of local food production. Mariculture exists as a vital component of the Coastal Zone community, as an essential element in local food production and a significant provider of visitor-serving uses, and should thus be protected and supported to ensure its continued vitality.

There is increasing interest in sustainable food production methods in California and beyond, including mariculture operations. The use of coastal waters for food production also heightens interest in protecting the quality of coastal waters, because healthy shellfish depend in part on unpolluted waters. According to the California Department of Fish and Game, Drakes Estero and Tomales Bay are among California's leading mariculture settings. Although the shucked weight of oysters raised has fluctuated widely over past decades, their dollar value has climbed steadily, reflecting increased consumer interest in oysters produced for the half-shell trade rather than shucked and jarred product.¹

Coastal Act policies place a high priority on coastal-dependent land uses such as aquaculture, and protect oceanfront lands suitable for such uses. Aquaculture facilities that require diking, filling, or dredging of coastal waters are allowed under Coastal Act policies, which in general strictly limit such activities. In cases where such activities are allowed, they are required to be carried out in a way that minimizes or avoids potentially harmful impacts.

¹ California Department of Fish and Game (2008). *Marine Status Report*. Retrieved from <http://www.dfg.ca.gov/marine/status/report2008/entire.pdf>

LCP policies support food production, including mariculture, while protecting other resources such as wildlife, water quality, and visual resources. Because existing mariculture operations in Marin County take place in submerged areas that are under the permit jurisdiction of agencies such as the Coastal Commission and the Department of Fish and Game, the LCP emphasizes general support for mariculture, while avoiding site-specific policy provisions.

Policies

C-MAR-1 Support Mariculture. Support and encourage mariculture in the Coastal Zone for the purposes of producing food, enhancing and restoring fisheries stocks, and contributing to the economy of the state and Marin County, ~~while providing for consistent with the protection of other priority uses, such as commercial fishing, coastal recreational such as clamming and boating, and the protection of coastal wildlife~~ marine biological resources, water quality, and visual resources. Support provision for onshore facilities necessary to support mariculture operations in coastal waters.

(PC app. 12/1/11, 3/8/10)

[Adapted from Unit II Mariculture Policy 1, p. 113]

C-MAR-3 Apply General Standards to Mariculture Operations. ~~The coastal permitting agency (Coastal Commission and/or Marin County)~~ shall apply the following standards and procedures to all mariculture operations:

1. Protection of eelgrass beds. The siting of oyster allotments, mariculture leases, and mariculture structures ~~should~~ shall avoid ~~interference~~ disturbance or damage to eelgrass beds ~~in Tomales Bay, in conformance with Section 30.10, Title 14, California Code of Regulations.~~
2. Operator access. Public agencies should be encouraged to consider operator access to mariculture leaseholds.
3. Shoreline access. Mariculture operations and onshore support facilities shall incorporate provisions for public access to and along the shoreline unless such access would interfere with mariculture and the impacts from access cannot be mitigated to less than significant levels. In evaluating coastal permits for mariculture, the County shall consider the location of existing accessways and potential conflicts between mariculture and public use of the shoreline.
4. Boating access. The placement of structures within new or existing allotments and leases shall not interfere with public boating access at high tide to state lands within the leased areas. If boat passages are proposed, they shall be spaced at a minimum of one passage per 1/2 mile of shoreline.



5. Onshore support facilities. Applicants for a coastal permit shall specify what access points and onshore support facilities (e.g., boat launch, loading dock, etc.) are required for the proposed mariculture operation, where such facilities will be located, and the timing of use. If private lands will be used for access or support facilities, the applicant shall submit a written statement from the property owner(s) agreeing to such use. If public lands will be used for access or support facilities, the applicant shall arrange a lease with the appropriate public agency specifying the type, location, and timing of use which is acceptable.
6. Visual impacts. Mariculture structures shall be sited and designed to minimize visual impacts, especially in areas which are highly visible from public roads, parks, or other public viewing areas.

(PC app. 12/1/11, 3/8/10)

[Adapted from Unit II Mariculture Policy 2, pp. 113-116]





Water Resources (WR)

Background

Coastal residents and visitors depend on healthy watersheds, as do wildlife and plant communities. Drinking water in the Marin County Coastal Zone comes from local springs, streams, and wells. Wildlife depends on uncontaminated water sources for healthy growth and reproduction. Coastal visitors provide significant economic benefits to coastal communities and are drawn by the unspoiled nature of the County's resources, including its lakes, streams, bays, and other waters (see Map 8 – Major Watersheds).

Past and present development practices and land uses have created adverse impacts to water quality and water resources. Tomales Bay, Walker Creek, and Lagunitas Creek have been designated by the State Water Resources Control Board as impaired water bodies, based on the presence of pollutants such as sediments and nutrients. Other pollutants, such as oil, grease, and heavy metals, are also present in the watersheds of the Coastal Zone. Land development and construction activities are key contributors to sedimentation and nutrient inputs to coastal waterways, and consequently land use regulations are an important way of reducing those pollutants. Furthermore, sewage disposal methods may contribute to nutrient loads in waterways, and parking and transportation facilities can contribute oil, grease, and heavy metals to coastal waters.

The predominant land use in the coastal zone is agriculture. Stormwater discharge from poorly managed grazing operations may contain pathogens, ammonia, salts, and excess sediment. The State and Regional Water Quality Control Boards regulate various aspects of agricultural wastewater management, and a variety of programs are available for ranchers to minimize impacts on water quality. The San Francisco Bay Regional Water Quality Control Board received a status report in June 2011 that shows that substantial progress was being made in implementation of the Tomales Bay Watershed Grazing Waiver. The Grazing Waiver implements the Tomales Bay pathogen Total Maximum Daily Load (TMDL) and the Walker Creek Mercury TMDL, adopted by the Regional Board, and the State Water Board's Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program. The goals of the Grazing Waiver are to improve and protect water quality and biological resources while promoting sustainable grazing. According to the report to the Regional Board, nearly all active grazing lands in the

Tomales Bay watershed are now covered by the Grazing Waiver. A partnership of entities in the watershed is providing valuable compliance assistance to the ranchers, and grant and contract funds have been awarded to assist the ranchers.

Upstream diversions, some of them outside the coastal zone, of coastal streams such as Lagunitas Creek have reduced vital freshwater inflows to both Tomales Bay and Bolinas Lagoon. Malfunctioning septic systems form a source of pollution for coastal waters.

The Coastal Act mandates protection and, where feasible, the restoration of biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health. In January 2000, the Coastal Commission, along with the State Water Resources Control Board, adopted the Nonpoint Source Program Strategy and Implementation Plan 1998-2013. The Plan states that nonpoint source pollution is the leading cause of water quality impairment in California and elsewhere in the nation, and that land use activities are a primary contributor to nonpoint source pollution in California. The Coastal Commission has emphasized the incorporation of land use measures into Local Coastal Programs to address the impacts of polluted runoff and to protect coastal water quality.

The Local Coastal Program (LCP) aims to improve the protection of coastal waters by addressing all phases of development, including design, construction, and post-construction maintenance of facilities. LCP policies ~~would~~ incorporate the concept of Best Management Practices, in order to acknowledge continuing improvements in technology and development practices.

Policies

C-WR-1 Water Quality Protection and Biological Productivity. Monitor, protect, and enhance the quality of coastal waters for the benefit of natural communities, human health, recreational users, and the local economy. Maintain and, where feasible, restore the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health through means such as minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alterations of natural streams.

(PC app. 2/13/12, 12/1/11, 1/25/10)

[New policy, not in Unit I or II]

C-WR-2 Water Quality Impacts of Development Projects. Site and design ~~public and private~~ development, including ~~and~~ changes in use or intensity of use, to prevent, reduce, or remove pollutant discharges and to minimize increases in stormwater runoff volume and rate to prevent adverse impacts to coastal waters to the maximum extent practicable. All coastal permits, for both new development and modifications to existing development, and including those for developments covered by the current National Pollutant Discharge Elimination System (NPDES) Phase II permit, shall be subject to this review. Where required by the nature and extent of a proposed project and where deemed appropriate by County staff, a project subject to this review shall have a plan which addresses both temporary (during construction) and permanent (post-construction) measures to control erosion and sedimentation, to reduce or prevent pollutants from entering storm drains, drainage systems and watercourses, and to minimize increases in stormwater runoff volume and rate.

Permanent Best Management Practices (BMPs) that protect water quality and minimize increases in runoff volume and rate shall be incorporated in the project design of developments. Site design and source control measures shall be given high priority as the preferred means of controlling pollutant discharges and runoff volume and rate. Typical measures shall include:

1. Minimizing impervious area;
2. Limiting site disturbance;
3. Protecting areas that are particularly susceptible to erosion and sediment loss, ensuring that water runoff beyond pre-project levels is retained on site whenever possible, and using other Low Impact Development (LID) techniques; and
4. Methods that reduce potential pollutants at their sources and/or avoid entrainment of pollutants in runoff. Such methods include scheduling construction based on time of year, prohibiting erosion-causing practices, and implementing maintenance and operational procedures. Examples include covering outdoor storage areas, using efficient irrigation, and minimizing the use of landscaping chemicals.

(PC app. 1/23/12, 12/1/11, 1/25/10)

~~[Adapted from Unit II New Development and Land Use Policy 6, p. 208]~~

Program C-WR-2.a Apply Appropriate Best Management Practices to Coastal Permits.

The Community Development Agency shall conduct a review with the Department of Public Works to determine appropriate water quality design standards, performance criteria, and Best Management Practices (BMPs), which shall be incorporated in applicable coastal permits.

(PC app. 12/1/11, 1/25/10)

~~[New program, not in Unit I or II]~~

C-WR-3 Storm Water Runoff. Where a project would add or create a total of 10,000 square feet or more of impervious surface (collectively over the entire project site) or where altered or increased flows from a project site have the potential to accelerate erosion or affect beneficial uses downstream, incorporate drainage controls so that the post-project peak flow and velocity of runoff from the project site for 2- and 10-year intensity storms do not exceed the peak flow and velocity of runoff from the site in its pre-project (existing) state. Where a drainage problem unrelated to a proposed project already exists, the project applicant and neighboring property owners shall be encouraged to develop a solution.

(PC app. 1/23/12, 1/25/10)

~~[Adapted from Unit I New Development and Land Use Policy 26, p. 67, and Unit II New Development and Land Use Policy 6.f, p. 208]~~

C-WR-4 Grading and Vegetation Removal. Design development to fit a site's topography, soils, geology, hydrology, and any other existing conditions. Orient development so that grading, cut and fill operations, and other site preparation are kept to an absolute minimum. Natural features, landforms, and native vegetation shall be preserved to the maximum extent feasible. Areas of a site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall be kept undeveloped.

(PC app. 12/1/11, 3/16/09)

~~[Adapted from Unit I New Development and Land Use Policy 24, p. 66, and Unit II New Development and Land Use Policy 6.a, p. 208]~~

C-WR-5 Cut and Fill Slopes. Design cut and fill slopes so that they are no steeper than is safe for the subject material or necessary for the intended use. A geotechnical report may be required.

(PC app. 12/1/11, 3/16/09)

~~[Adapted from County Code Section 24.04.640]~~

C-WR-6 Soil Exposure. Allow any necessary grading operations only such that the smallest practicable area of land shall be exposed at any one time during development and the length of exposure shall be kept to the shortest practicable time. Erosion and sedimentation control measures shall be incorporated in development plans. An erosion and sedimentation control plan, subject to approval by the Department of Public Works, shall be required for development of any site of 1 acre or more in size or, at the discretion of the Department of Public Works, for any site of less than 1 acre because of a high risk of erosion and sedimentation. Such plan is also required for projects listed under Policy C-WR-14 that involve grading.

(PC app. 12/1/11, 3/16/09)

~~[Adapted from Unit I New Development and Land Use Policy 25, p. 66, and Unit II New Development and Land Use Policy 6.b, p. 208]~~

C-WR-7 Wintertime Clearing and Grading. Avoid land clearing and grading during the winter rainy season (i.e., October 15th through April 15th). Ensure that all measures for removing sediments and stabilizing slopes shall be in place before the beginning of the rainy season. Permit land clearing and grading during the rainy season only upon prior approval by the Department of Public Works of an erosion control plan, which shall demonstrate that at no stage of the work will there be any substantial risk of increased sediment discharge from the site.

(PC app. 12/1/11, 3/16/09)

~~[Adapted from Unit I New Development and Land Use Policy 25, p. 66, Unit II New Development and Land Use Policy 6.b, p. 208, and from County Code Sections 22.70.070.C.3 and 24.04.625]~~

C-WR-8 Disturbed Soils. Use temporary vegetation, seeding or hydroseeding with non-invasive native seeds, mulching, or other suitable stabilization methods to protect soils that have been exposed during grading or development. Stabilize cut and fill slopes immediately with plantings of native species, ~~appropriate non-native plants,~~ or with accepted landscaping practices.

(PC app. 2/13/12, 12/1/11, 3/16/09)

~~[Adapted from Unit I New Development and Land Use Policy 26, p. 66, and Unit II New Development and Land Use Policy 6.d, p. 209]~~



C-WR-9 Topsoil. Where topsoil is removed by grading operations, stockpile it for reuse and protect it from compaction and wind or erosion during stockpiling.

(PC app. 12/1/11, 3/16/09)

~~[Adapted from Unit I New Development and Land Use Policy 26, p. 66, and Unit II New Development and Land Use Policy 6.e, p. 209]~~

C-WR-10 Construction-Phase Sediment Basins. Install sediment basins (including debris basins, desilting basins, or silt traps) required by erosion control plans or otherwise necessary to control sedimentation during construction on the project site in conjunction with initial grading operations. Maintain sediment basins throughout the development process to remove sediment from runoff waters. All sediment shall be retained on site unless removed to an approved dumping location.

(PC app. 12/1/11, 3/16/09)

~~[Adapted from Unit II New Development and Land Use Policy 6.c, p. 208]~~

C-WR-12 Maintenance of Water Quality Control Facilities. If structural and/or treatment control facilities are incorporated in a project, require the applicant to submit a monitoring and maintenance plan indicating how such facilities will be adequately maintained by the applicant and any subsequent property owner after construction is complete. Where a proposed development project involves a land subdivision or homeowners' association, require assignment of responsibility for maintenance of structural and treatment control measures to a homeowners' association or other appropriate entity.

(PC app. 12/1/11, 3/16/09)

~~[New policy, not in Unit I or II]~~

C-WR-13 Site Plan Contents – Post-Construction Element. At the discretion of the Department of Public Works based on the scale or potential water quality impacts of a proposed project, require that a coastal permit application for new development be accompanied by a site plan containing a Post-Construction Element. This Post-Construction Element shall detail how storm water and polluted runoff will be managed or mitigated following project construction, utilizing both source control and treatment control measures, and both structural and non-structural measures.

(PC app. 12/1/11, 3/16/09)

~~[New policy, not in Unit I or II]~~

C-WR-14 Design Standards for High-Impact Projects. For developments that have a high potential for generating pollutants (High-Impact Projects), incorporate treatment control Best Management Practices (BMPs) or ensure that the requirements of the current NPDES Municipal Stormwater permit are met, whichever is stricter. The applicant shall submit a preliminary plan with a post-construction element prepared by an appropriately licensed California professional. The plan shall address erosion, sedimentation, and pollutants of concern. Developments to be considered as High-Impact Projects shall include the following:

1. Development of commercial facilities shall incorporate BMPs to minimize polluted runoff from structures, landscaping, parking areas, repair and maintenance areas, loading/unloading areas, vehicle/equipment wash areas, and other components of the project.
2. Development of automotive repair shops and retail motor vehicle fuel outlets shall incorporate BMPs to minimize oil, grease, solvents, car battery acid, coolant, petroleum products, and other pollutants from entering storm water runoff from any part of the property including fueling areas, repair and maintenance areas, loading/unloading areas, and vehicle/equipment wash areas.
3. Development of restaurants and other food service establishments shall incorporate BMPs to minimize runoff of oil, grease, solvents, phosphates, suspended solids, and other pollutants.
4. Development of outdoor storage areas for materials that contain toxic compounds, oil and grease, heavy metals, nutrients, suspended solids, or other pollutants shall be designed with a roof or awning cover to minimize runoff.
5. Development of uncovered parking lots shall incorporate BMPs to minimize runoff of oil, grease, car battery acid, coolant, petroleum products, sediments, trash, and other pollutants.
6. Development that will:
 - a. Result in the creation, addition, or replacement of 5,000 square feet or more of impervious surface, and

- b. Occur within 4200 feet of the ocean, ~~or coastal waters~~ wetlands or streams, or ESHA, or discharge runoff directly to the ocean, coastal waters, or to a stream or wetland buffer as defined by the Biological Resource policies of the LCP.

“Discharge runoff directly” is defined as runoff that flows from the development to the ocean, coastal waters, or to a stream or wetland buffer that is not first combined with flows from any other adjacent areas.

- 7. Development that will result in the creation, addition, or replacement of 10,000 square feet or more of impervious surface area, regardless of its location.
- 8. Any other development determined by the County to have a high potential for generating pollutants.

The applicant for a High-Impact Project shall be required to submit a preliminary plan with a post-construction element with the application during the initial planning process. Prior to issuance of a building or grading permit the applicant shall submit a final plan with a post-construction element prepared by an appropriately licensed California professional for approval by the County. The plan shall include the following where applicable (applicability will be determined by County staff):

- 1. Pre-project and post-project stormwater runoff hydrograph (runoff flow rate plotted as a function of time) for the project site for 2- and 10-year storm events;
- 2. A description of how the treatment control BMPs (or suites of BMPs) have been sized and designed to treat, infiltrate, or filter stormwater runoff from each storm event, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs;
- 3. A description of Low-Impact Development (LID) techniques that will be incorporated into the project in order to minimize negative impacts to stormwater quality and quantity from the project development;
- 4. If the applicant asserts that treatment control BMPs are not feasible for the proposed project, the plan shall document why those BMPs are not feasible and provide a description of alternative management practices to protect water quality; and
- 5. A long-term plan and schedule for the operation and maintenance of all treatment control BMPs specifying that treatment control BMPs shall be inspected, cleaned, and repaired as necessary to ensure their effective operation for the life of the development. In addition:
 - a. Owners of these devices shall be responsible for ensuring that they continue to function properly, and additional inspections should occur after storms as needed throughout the wet season, and
 - b. Repairs, modifications, or installation of additional BMPs, as needed, shall be carried out prior to the next wet season.
- 6. Where feasible and appropriate, development shall include connections to sanitary sewer systems as a means of treating particularly polluted runoff not readily addressable by more typical BMPs, and so as to not allow such polluted runoff to make its way into coastal waters, streams, and wetlands.

(PC app. 2/13/12, 1/23/12, 1/25/10)

~~[New policy, not in Unit I or II]~~

Program C-WR-14.a Participate in Broad-Based Efforts to Improve Coastal Water Quality. Provide information to applicants and the public, including materials prepared by the Marin County Stormwater Pollution Prevention Program (MCSTOPPP), to address developments both large and small for potential impacts to the quality of coastal waters. Applicants shall be encouraged to incorporate in proposed developments measures to minimize effective impervious area and landform alteration and to maximize use of natural vegetation, along with other measures as provided by Marin County programs and codes. The Community Development Agency shall encourage retrofit of existing development through measures such as the removal of existing impermeable surfaces and replacement with permeable surfaces and the creation of drainage features or landscaping that incorporate natural infiltration mechanisms, with the goal of enhancing water quality in existing developed areas.

(PC app. 12/1/11, 1/25/10)

~~[New program, not in Unit I or II]~~

Program C-WR-14.b Apply Policy C-WR-14 to Projects with the Highest Risk of Water Quality Impacts. Amend the Development Code to include guidelines that define types of developments that have a high potential for generating pollutants in order to supplement the development types that are regulated by the revised NPDES Phase II permit.

(PC app. 12/1/11, 1/25/10)

~~[New program, not in Unit I or II]~~

C-WR-15 Construction-Phase Pollution. Manage construction sites to prevent contact between runoff and chemicals, fuel and lubricants, cleansers, and other potentially harmful materials.

(PC app. 12/1/11)

~~[New policy, not in Unit I or II]~~

C-WR-16 Construction Non-sediment Pollution. Minimize runoff of pollutants from construction sites (e.g., solvents, adhesives, preservatives, soluble building materials, vehicle lubricant and hydraulic fluids, concrete truck wash-out slurry, and litter) to the maximum extent feasible.

(PC app. 12/1/11)

~~[New policy, not in Unit I or II]~~

C-WR-17 Erosion and Flood Control Facilities. Consider placement of sediments collected by erosion and flood control facilities at appropriate points on the shoreline where these sediments will enhance shoreline access and characteristics, will not cause adverse impacts to coastal resources, and the placement can be accomplished in accordance with other applicable provisions of this chapter. Before issuing a coastal development permit for these purposes, consider the physical, chemical, and biological qualities of the sediment, the proposed method of placement, time of year of placement, and sensitivity of the placement area.

(PC app. 12/1/11)

~~[New policy, not in Unit I or II]~~



Built Environment

Introduction

In the Marin County Coastal Zone, the built environment is subordinate to the natural environment. Natural landforms, streams, forests, and grasslands are dominant. Yet the residential, agricultural, and commercial buildings, as well as the community services that support them, have particular significance, both as the scene of daily life and for their potential impacts on natural resources. The pattern and intensity of development are inextricably linked with protection of coastal resources, energy use, and recreational opportunities, all of which are addressed by the Local Coastal Program (“LCP”).

The Built Environment section addresses the following subjects:

- ♦ Community Design (DES)
- ♦ Community Development (CD)
 - ♦ Community Specific Policies
 - ♦ Muir Beach (MB)
 - ♦ Stinson Beach (SB)
 - ♦ Bolinas (BOL)
 - ♦ Olema (OL)
 - ♦ Point Reyes Station (PRS)
 - ♦ Inverness (INV)
 - ♦ East Shore/ Marshall (ES)
 - ♦ Tomales (TOM)
 - ♦ Dillon Beach (DB)

- ◆ Energy (EN)
- ◆ Housing (HS)
- ◆ Public Facilities and Services (PFS)
- ◆ Transportation (TR)



Community Design (DES)

Background

The Marin County Coastal Zone is a place of singular beauty. It is also the home of small-scale communities, farms, scattered residences, and businesses. Visitors enjoy coming to Marin's coast because of its balance of natural and built environments. Maintaining that balance, and maintaining the character of existing communities while accommodating economic activity, is the focus of the Community Design policies of the Local Coastal Program (LCP).

Rising land values in many parts of California have led to an increase in the scale of new development, accompanied by ever-greater impacts on the surrounding community. Such trends also impact local visual resources that are enjoyed by residents and visitors. Furthermore, new development is increasingly proposed in visually sensitive locations, such as on ridgelines, as well as within already developed communities.

The Coastal Act mandates that scenic and visual qualities of the coast shall be considered and protected as a resource of public importance. In particular, views to and along the coast shall be protected. New development shall be visually compatible with the character of surrounding areas. In addition, those communities that are visitor destinations because of their unique characteristics shall be protected. The villages of the Marin County Coastal Zone are among such communities that are desirable to visitors, as well as to residents.

LCP policies ensure that new structures are compatible with the height, scale, and design of existing buildings. Significant views to and along the coast continue to be protected by LCP policies, and the preservation of visually prominent ridgelines is also addressed. The LCP protects the existing character of the Coastal Zone, while still accommodating compatible new development.

Policies

C-DES-1 Compatible Design. Ensure that the siting, height, scale, and design (including materials and color) of new structures are compatible with the character of the surrounding natural ~~or~~ and built environment. Structures shall be designed to follow the natural contours of the land and shall limit reflectivity of glass and other surfaces.

(PC app. 9/19/11, 10/26/09)

{Adapted from Unit II New Development and Land Use Policy 3.a, p. 207}

C-DES-2 Protection of Visual Resources. ~~Ensure appropriate~~ Development shall be sited and designed ~~of structures~~ to protect significant views, including views both to and along the ocean and scenic coastal areas ~~east~~ as seen from public viewing areas such as highways, roads, beaches, parks, coastal trails and accessways, vista points, and coastal streams and waters used for recreational purposes. The intent of this policy is the protection of significant public views rather than coastal views from private residential areas. Require development to be screened with appropriate landscaping provided that when mature, such landscaping shall not interfere with public views to and along the coast. The use of drought tolerant, native coastal plant species is encouraged. Continue to keep road and driveway construction, grading, and utility extensions to a minimum, except that longer road and driveway extensions may be necessary in highly visible areas in order to avoid or minimize other impacts.

[BOS app. 7/30/2013]

(PC app. 11/7/11, 1/24/11)

{Adapted from Unit I New Development and Land Use Policy 21, p. 65, and Unit II New Development and Land Use Policy 3.b, p. 207}

C-DES-3 Protection of Ridgeline Views. Require new development proposed on or near visually prominent ridgelines to be grouped below the ridgeline on the least visually prominent portion of the site. Prohibit new development on top of, within 300 feet horizontally, or within one hundred feet vertically of visually prominent ridgelines, whichever is more restrictive, if other suitable locations are available on the site. If structures must be placed within this restricted area because of site size or similar constraints, they shall be in locations that are least visible from public viewing areas, shall be sited and designed to limit public view impacts to the maximum extent feasible (including through landscaping and screening), and shall not exceed 18 feet in height.

(PC app. 9/19/11, 7/29/10)

{Adapted from CWP Program DES 4.d, p. 3-67, and Interim County Code Section 22.57.020.1.b}

Program C-DES-3.a Map Visually Prominent Ridgelines. Work with key community groups to identify and map visually prominent ridgelines, both developed and undeveloped, and identify Ridge and Upland Greenbelt Areas as appropriate.

(PC app. 9/19/11, 7/29/10)

{Adapted from CWP Program DES 4.e, p. 3-67}

C-DES-4 Limited Height of New Structures. Limit all new construction to a maximum height of twenty-five (25) feet with the following exceptions:

1. In the Highlands neighborhood of Stinson Beach, the maximum height shall be no more than seventeen (17) feet (see Map 17 – Stinson Beach Highlands Subdivision).
2. In FEMA special flood hazard (V) zones within the Seadrift Subdivision, the maximum building height of 15 feet shall be measured from the minimum floor elevation required by the flood

hazard zone designation (*see also Environmental Hazards Policy C-EH-11: Minimum Floor Elevations in the Flood Velocity Zone at Seadrift*).

3. On the shoreline of Tomales Bay, the maximum height shall be fifteen (15) feet. (*See also Community Development Policy C-CD-6: Standards for Development on the Shoreline of Tomales Bay*).
4. Telecommunications facilities, spires, water tanks, and similar structures may exceed such height limits above. However, any structure that exceeds the 25 foot height limit shall only be authorized upon specific findings of consistency with other applicable policies of the LCP, including C-DES-1, 2, and 3.

In all cases, the height limits specified in this policy are maximums and not entitlements. Heights may be limited to less than the maximum allowed if necessary to achieve consistency with LCP policies, including in relation to the protection of public views and community character.

(PC app. 9/19/11, 7/29/10)

~~[Adapted from Unit I New Development and Land Use Policy 21, p. 65. This policy also carries forward the concept of Unit I Location and Density of New Development Policy 35, p. 81]~~

C-DES-5 New Signs. Ensure that new signs (including reconstructed and/or modified signs) are of a size, location, and appearance so they do not detract from scenic areas or views from public roads and other viewing points.

(PC app. 9/19/11, 7/29/10)

~~[Adapted from Unit II New Development and Land Use Policy 3.c, p. 207]~~

Program C-DES-5.a Develop A-Frame Sign Standards. Consider amending the sign ordinance to allow limited use of A-frame signs within village areas subject to standards related to number, location, size, height and design.

(PC app. 9/19/11, 7/29/10)

~~[New program, not in Unit I or II]~~

C-DES-6 Underground Utilities. Require that utility lines are placed underground in new development to protect scenic resources except where costs of undergrounding would be so high as to deny service or where undergrounding would result in greater environmental impacts.

(PC app. 9/19/11, 10/26/09)

~~[Adapted from Unit II New Development and Land Use Policy 3.d, p. 207]~~

C-DES-7 Minimized Exterior Lighting. Exterior lighting shall be the minimum consistent with safety and shall be low wattage, hooded, and downcast to prevent glare and limit impacts on public views as much as possible.

(PC app. 9/19/11, 7/29/10)

~~[New policy, not in Unit I or II]~~

C-DES-8 Protection of Trees. Site structures and roads to avoid removal of trees that contribute to the area's scenic and visual resources, except where required to maintain defensible space for structures or eliminate diseased trees that threaten surrounding structures or vegetation and where removal is otherwise consistent with LCP policies. Dead trees may serve as valuable habitat for some species, so avoid complete removal where appropriate.

(PC app. 9/19/11, 7/29/10)

~~[Adapted from Unit II New Development and Land Use Policy 6.a, p. 208]~~

C-DES-9 Landscaping. Ensure that required landscaping ~~predominantly~~ uses native species of trees and plants and avoids using non-native, invasive trees and plants. (See also *Biological Resources Policy C-BIO-6: Invasive Plants*, which may require the removal of any non-native invasive plant species).

(PC app. 9/19/11, 1/24/11)

~~[Adapted from Unit II New Development and Land Use Policy 6.d, p. 209]~~

C-DES-10 Prohibition of Gated Communities. Prohibit the establishment of gated communities.

(PC app. 9/19/11, 10/26/09)

~~[Adapted from CWP Policy DES 3.c, p. 3-65]~~

C-DES-11 Minimization of Fuel Modification. Site and design new development to ~~minimize-avoid~~ required initial and future fuel modification and brushing clearance in general, and to avoid such activities in particular, within ESHAs and ESHA buffers, ~~to the maximum extent feasible~~, in order to ~~minimize~~ avoid habitat disturbance or destruction, removal or modification of natural vegetation, and irrigation of natural areas, ~~while providing for fire safety~~.

(See also Policies C-BIO-3, C-BIO-19 and C-BIO-24 (ESHA, Wetland, Stream Buffers), C-BIO-4 (Protect Major Vegetation) and C-EH-25 (Vegetation Management in Environmentally Sensitive Habitat Areas).)

~~[BOS app. 1/15/2013]~~

(PC app. 9/19/11, 7/29/10)

~~[Adapted from Malibu LCP Policy 3.59]~~



Community Development (CD)

Background

In the Marin County Coastal Zone, the built environment is subordinate to the natural surroundings. Agricultural lands and open space are the predominate features of the area, whereas coastal communities are small and few in number (see Map 16 – Community Areas). Development of homes, farms, and commercial buildings, along with the community services that support them, can nevertheless have significant impacts on their surroundings, and community development is therefore inextricably linked with the protection of coastal resources.

The pace of land development in recent decades throughout the Marin County Coastal Zone has been relatively modest in comparison to that of coastal communities in other parts of California. Limitations on public service availability and the existence of extensive public land holdings in the Coastal Zone have undoubtedly played a part in that result, along with strong LCP policies that encourage agriculture and protection of community character.

Coastal Act policies provide that new residential, commercial, or industrial development, in general, shall be located within, contiguous with, or in close proximity to existing developed areas. If existing developed areas are not able to accommodate it, then development may be located elsewhere as long as adequate public services are available and significant adverse effects on coastal resources will not result. Furthermore, Coastal Act policies set certain priorities and standards for new development, for instance by limiting strictly the types of land uses that may be allowed in wetlands or other sensitive areas.

The Coastal Act defines “development” broadly, to include not only construction of houses and commercial buildings, but also changes in intensity of use of land or water, including the division of land into separate lots, and changes in public access to the shoreline. The LCP addresses the wide range of

development activities in the Coastal Zone that have the potential to affect coastal resources, including ~~or~~ shoreline access, and requires that all new development comply with LCP standards and policies. The number of commercial and other non-residential projects in the area over the past few decades has been modest in comparison with the number of residential projects. Among the residential projects considered in the past three decades, fewer than half involved new dwellings on vacant sites. The remaining residential projects included additions and repairs/replacements, which can generally involve fewer impacts to coastal resources than new construction on vacant property.

The community character of Marin County's coastal villages is important to both residents and visitors. The LCP continues to guide proposed development toward existing villages in an effort to preserve the natural landscape. LCP policies ensure that new development is consistent with the character of the surrounding community and maintains village limit boundaries in order to concentrate development and avoid sprawl. In addition, service constraints and the large amount of publicly owned land will act as a natural constraint to future development.



The pace of residential development in recent decades has been generally modest and remains well within the estimated ultimate residential buildout for the Coastal Zone. Provisions for the siting and intensity of new development are reflected in the LCP land use policy maps (see Maps 19a – 19m). In addition, LCP policies in other chapters provide for improved resource protection that, taken together, will reduce impacts of the built environment on Coastal Zone resources.

Policies

C-CD-2 Location of New Development. Locate new development within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse impacts, either individually or cumulatively, on environmental and natural resources, including coastal resources.

(PC app. 9/19/11, 10/26/09)

[Adapted from Coastal Act Section 30250(a)]

C-CD-3 Appropriate New Development. Ensure that the type and intensity of new development, including land divisions, conform to the land use categories and ~~residential~~ density provisions of the LCP and Land Use Policy Maps. Allowable densities are stated as maximums and do not establish an entitlement to buildout potential. In addition, land divisions outside village limit boundaries shall only be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. Land divisions shall be prohibited if the resulting lots cannot be developed consistent with the LCP. (See also C-PFS-1: Adequate Services)

(PC app. 9/19/11, 7/29/10)

[New policy, not in Unit I or II]

C-CD-4 Protection of Open Lands, Existing Communities, and Recreational Opportunities. Work with individual landowners; local, state, and federal agencies; and non-

governmental organizations to preserve rural character, agriculture, and open lands, and protect existing communities and recreational opportunities in the Coastal Zone.

(PC app. 9/19/11, 10/26/09)

[Adapted from CWP Program CD 1.d, p. 3-13]

C-CD-5 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,~~ as defined by Policy C-EH-5. Structures or uses that are enlarged, intensified, moved to another site or redeveloped as defined in C-EH-5 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.

(PC app. 11/7/11, 7/29/10)

[Adapted from County Code Section 22.112.020]

C-CD-6 Standards for Development on the Shoreline of Tomales Bay. New construction along the shoreline of Tomales Bay shall be limited in height to 15 feet above grade. Exceptions to this height limit may be permitted where topography, vegetation, or character of existing development is such that a higher structure would not create additional interference with coastal views either to, along, or from the shoreline or water.

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit II New Development and Land Use Policy 8.f, p. 216, and County Code Section 22.20.060.a]

C-CD-7 Structures on Public Trust Lands. Allow existing structures on public trust lands along the shoreline of Tomales Bay to be rebuilt if ~~damaged or~~ destroyed by natural disaster, in conformance with development standards specified in Section 30610(g) of the Coastal Act and other County policies. Construction of new residential dwellings on public trust lands is not considered an appropriate public trust use and is not allowed. It should be noted that development on public trust lands is within the Coastal Permit jurisdiction of the California Coastal Commission. However, other County permit requirements (such as Design Review or Tidelands Permit approval) may also apply.

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit II Public Trust Lands Policies 2 and 3, p. 129]

C-CD-8 Shoreline Structures and Piers. Limit the location of piers and other recreational or commercial structures to sites located within existing developed areas or parks. New piers shall be permitted only if all of the following criteria are met:

1. The structure will be used to serve a coastal-dependent use or will preserve or provide access to related public recreational lands or facilities.
2. The structure will not be located in wetlands or other significant resource or habitat area and will not, individually or cumulatively, cause significant adverse impacts on fish or wildlife.
3. The structure will not interfere with public access, use, and enjoyment of the natural shoreline environment.
4. The structure will not restrict navigation, mariculture, or other coastal use and will not create a hazard in the area in which it is built.
5. There is no pier with public access within ½ mile, or use of a nearby pier would not be feasible due to its size, location, or configuration.

Allow reconstruction and maintenance of existing piers provided that the pier is of the same size and in the same location as the original pier. Enlargements or changes in design or location shall be evaluated based on criteria stated above.

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit II Shoreline Structures Policy 3, p. 132]

C-CD-9 Access to Shoreline Structures. Require public access to new piers or similar recreational or commercial structures unless it can be demonstrated that such access would significantly interfere with commercial fishing or similar operations on the pier or be hazardous to public safety, in which case alternative and commensurate public access shall be provided. A public access easement from the first public road across the applicant's property to the pier shall be required.

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit II Shoreline Structures Policy 4, p. 132]

C-CD-10 Sub~~Division~~ Division of Beachfront Lots. No land ~~additional sub~~division of beachfront lots shall be permitted in recognition of the cumulative negative impacts such divisions would have on both public and private use of the beach, except if a finding is made that such a land ~~sub~~division will be consistent with the development of shoreline lots within the Stinson Beach and Seadrift areas in Biological Resources Policy C-BIO-9. Similarly, the erection of fences, signs, or other structures seaward of any existing or proposed development and the modification of any dune or sandy beach area shall not be permitted except as provided in the Environmental Hazards policies in order to protect natural shoreline processes, the scenic and visual character of the beach, and the ~~public and private~~ use of dry sand areas in accordance with Section 30211 of the Coastal Act.

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit I Natural Dune and Sandy Beach Protection Policy 21, p. 30]

C-CD-11 Maintenance of Village Limit Boundaries. Maintain existing village limit boundaries to preserve existing agricultural lands for agricultural use while allowing for reasonable growth and infill within the village limit boundaries. These boundaries depict existing developed areas for purposes of Section 30250 (a) of the Coastal Act. The following issues ~~should~~ shall be considered if changes in village limit boundaries are proposed:

- Boundaries of existing developed areas. In some cases, infilling within these areas is the only expansion recommended.
- Boundaries within which villages should be allowed to expand in the future. Criteria for setting these boundaries are described below.

Criteria used in setting village limit boundaries:

1. Boundaries of existing and proposed public open space (e.g. Golden Gate National Recreation Area, Point Reyes National Seashore);
2. Boundaries used in studies by the Community Development Agency and local planning groups;
3. Areas under agricultural zoning and/or use;
4. Service area boundaries of utility districts;
5. Watershed boundaries;
6. Natural barriers including: terrain, water, cliffs, and open space separating developed areas;
7. Man-made barriers including: roads, dikes;
8. Existing subdivisions;

9. Floodplains and areas subject to seismic hazards.

10. Potential impacts to coastal resources (including public views, public service capacities, environmentally sensitive habitat, and agriculture) due to buildout under expanded boundary.

(PC app. 9/19/11, 10/26/09)

[Adapted from CWP Policy PA 7.4, p. 3-242]

C-CD-12 Describe Village Limit Boundaries. The village limit boundaries are described as follows and shown on the accompanying maps for the following communities:

1. Muir Beach. Village limit boundary shall be defined by surrounding federal and state parklands, as shown on the Muir Beach Land Use Policy Map 19a.
2. Stinson Beach. Village limit boundary shall be defined by surrounding state and federal parklands, Bolinas Lagoon, and Pacific Ocean, as shown on the Stinson Beach Land Use Policy Map 19b. The beachfront area along Mira Vista owned by the County of Marin is also excluded.
3. Bolinas. Village limit boundary shall be defined by surrounding federal parklands in addition to County-owned lands adjacent to the Bolinas Lagoon, as shown on the Bolinas Land Use Policy Map 19c.
4. Olema. Village limit boundary shall be defined by surrounding federal parklands, as shown on the Olema Land Use Policy Map 19d.
5. Point Reyes Station. Village limit boundary shall be defined as shown on the Point Reyes Station Land Use Policy Map 19e except that lands acquired by the federal government for inclusion in the GGNRA shall be excluded. These lands shall be rezoned to C-OA (Coastal Open Area).
6. Inverness Ridge. Village limit boundary shall be determined by the location of public parklands to the north, west, and south, and by Tomales Bay to the east as shown on the Inverness Land Use Policy Map 19f.
7. Marshall/East Side of Tomales Bay. Village limit boundary shall be defined to include the area from the Hog Island Oyster Company to the north and the Marshall Boat Works to the south. On the east of Highway One, the village limit boundary shall include the small existing subdivided parcels abutting Highway One between Marshall-Petaluma Road and the Marshall Boat Works, as shown on the East Shore Land Use Policy Map 19h.
8. Tomales. Village limit boundary shall be defined as shown on the Tomales Land Use Policy Map 19j.
9. Dillon Beach/Oceana Marin. Village limit boundary shall be drawn from the northern boundary of the Oceana Marin subdivision on the north to the southern end of Lawson's Dillon Beach Resort on the south, and from the shoreline on the west to the eastern side of Oceana Marin, the Village, and Lawson's Dillon Beach Resort, as shown on the Dillon Beach Land Use Policy Map 19i. Lawson's Dillon Beach Resort parcel 100-100-47 is included within this area.

(PC app. 9/19/11, 10/26/09)

[Adapted from Unit II New Development and Land Use Policies 8.a(1) through 8.h(1), pp. 209-216]

C-CD-13 Chain Store Operations. Discourage the establishment of chain store operations that are not consistent with the existing character and scale of the surrounding community.

(PC app. 9/19/11, 7/29/10)

[Adapted from the Stinson Beach Community Plan, 1983, Land Use Policy E, p. 33]

C-CD-14 Limited Conversion of Overnight Visitor-Serving Enterprises. Visitor-serving enterprises, particularly those which offer and provide places of overnight accommodation, shall remain available to any prospective guest on a space available basis. Proposed ~~Conversion~~ of such places of overnight accommodations into a more limited type of occupancy shall be discouraged. (See also Parks, Recreation and Visitor-Serving Uses Policies C-PK-1 through C-PK-8)

(PC app. 9/19/11, 07/29/10)

[Adapted from the Inverness Ridge Communities Plan, Commercial Land Use Policy 2.01.C, p. 38]

C-CD-15 Residential Character in Villages. Discourage the conversion of residential to commercial uses in coastal villages. ~~If conversion of a residence to commercial uses is allowed under applicable zoning code provisions, the architectural style of the home should be preserved.~~

(PC app. 9/19/11, 7/29/10)

[Adapted from the Point Reyes Station Community Plan, Policy PA 2.4, p. 13]

C-CD-16 Maintenance of the Rural Character of Roadways. Roadways and accessways ~~should~~ shall reflect the character of coastal communities and ~~should~~ shall be context and location sensitive. The primary areas to be considered for sidewalks, curbs, and similar roadway improvements shall be within designated village boundaries.

(PC app. 9/19/11, 7/29/10)

[Adapted from Point Reyes Station Community Plan, Circulation and Transportation Policies T 1.1 and T 3.1, pp. 50-51; and Tomales Community Plan, Policy TR 1.1, p. IV-16]

C-CD-18 Visitor Notification. Provide real-time information of highway congestion and parking conditions in coastal communities to coastal visitors before they commit to Highway One. Use electronic signs located near Highway 101 or other appropriate locations, a regularly updated website, and other telecommunication methods.

(PC app. 9/19/11, 7/29/10)

[Adapted from the Stinson Beach Community Plan, 1983, Circulation Policy D, p. 16]

C-CD-19 Windbreaks. Discourage new wind breaks along Highway One to preserve public coastal views. Consider the effects of proposed wind breaks at initial planting as well as at maturity on sunlight, coastal views, and traffic safety related to visibility.

(PC app. 9/19/11, 7/29/10)

[Adapted from Point Reyes Station Community Plan, Policy PA 3.9, p. 14]

C-CD-20 Lighting for Recreational Use. Prohibit night lighting for privately-owned recreational facilities such as tennis courts, sport courts, and other similar outdoor recreational activity areas to avoid glare and noise intrusion from the nighttime use of such areas and to minimize disruption of the natural ecology. Allow night lighting for publicly-owned facilities subject to a use permit, only if such lighting can be designed to protect against impacts to coastal resources, including biological and visual resources, as required by the LCP.

(PC app. 9/19/11, 7/29/10)

[Adapted from the Point Reyes Station Community Plan, Program RL 3.4b, p. 34]

C-CD-22 Agricultural Land Use Categories. Establish agriculture land use categories to preserve and protect a variety of agricultural uses, and to enable potential for agricultural production and diversification. Historically, 60 acres has been the minimum parcel size for most agricultural lands in the county. Various policies regarding agricultural productivity, water availability, effects on water quality, and other factors govern the ~~subdivision~~ of such lands, along with the intensities described below. The effect is that land ~~subdivisions~~ of agricultural lands are rare. The zoning designations listed are examples

of consistent zoning and are not the only possible consistent zoning designations. The following Agricultural land use categories are established:

Agriculture 1 (C-AG1). This land use category is established to preserve agricultural lands that are suitable for agricultural productivity, that contain soils capable of supporting production agriculture, or that are currently zoned C-APZ. The principal permitted use of these lands shall be agriculture, and any development shall be accessory and incidental to, in support of, and compatible with agricultural production. A maximum density of one dwelling unit per 60 acres is permitted, and all development shall be consistent with applicable LCP policies.

Consistent Zoning: C-APZ-60
C-ARP-31 to C-ARP-60

Agriculture 2 (C-AG2). The principal permitted use of these lands shall be agriculture. This land use category is established for agricultural uses on lands adjacent to residential areas, and at the edges of Agricultural Production Zones in the Coastal Zone that have potential for agricultural production and can provide flexibility in lot size and building locations subject to the standards of the LCP in order to:

1. Promote the concentration of residential and accessory uses to maintain the maximum amount of land available for agricultural use, and
2. Maintain the visual, natural resource and wildlife habitat values of subject properties and surrounding areas. The C-ARP district requires the grouping of proposed development.

Consistent Zoning: C-ARP-10 to C-ARP-30

Agriculture 3 (C-AG3). The principal permitted use of these lands shall be residential. This land use category is established for residential use within the context of small-scale agricultural and agriculturally-related uses, subject to the standards of the LCP.

Consistent Zoning: C-ARP-1 to C-ARP-9

~~(PC app. 1/9/12, 9/19/11, 10/26/09)~~

~~[Adapted from CWP Policy CD-8.5 pg. 3-35]~~

C-CD-23 Residential Land Use Categories and Densities. Establish residential land use categories for residential development at a full range of densities, with emphasis on providing more affordable housing including incentives for low and very low income units, while also recognizing that physical hazards, fire risk, development constraints, protection of natural resources, and availability of public services and facilities can limit housing development in most areas.

The following categories are established for residential land uses. Standards of population density and building intensity are established for each category. Density ranges expressed as dwelling units per acre are provided for residential uses. For nonresidential uses permitted in a residential land use category, the FAR established for that land use category shall apply.

Some examples of zoning designations that are consistent with various residential land use designations are provided below (these may not be the only possible consistent zoning designations). Zoning maps and the Development Code provide additional details regarding allowed uses and development standards. Other uses that may be permitted in residential land use designations include, but are not limited to, parks, playgrounds, crop and tree farming, nurseries and greenhouses, home occupations, schools, libraries, museums, community centers, places of worship, hospitals, retreats, educational institutions,

philanthropic and charitable institutions, facilities for nonprofit organizations, cemeteries, golf courses, country clubs, stables and riding academies, and family day care homes.

Very Low Density Residential

The following very low density residential land use categories (minimum lot sizes of 5 to 60 acres) are established for single-family residential development on large properties in rural areas where public services are very limited or nonexistent and on properties where significant physical hazards and/or natural resources significantly restrict development.

Land Use Category	Minimum Lot Size	<u>Maximum FAR</u>	Consistent Zoning
Single-Family 1 (C-SF1)	20 to 60 acres	.01 to .09	C-RSP-0.05 to C-RSP-0.016
Single-Family 2 (C-SF2)	5 to 19 acres	.01 to .09	C-RSP-0.02 to C-RSP-0.05

Rural/Residential

The following Rural/Residential land use categories (minimum lot sizes of 20,000 square feet to 5 acres) are established for single-family residential development in areas where public services are limited and on properties where physical hazards and/or natural resources may restrict development.

Land Use Category	Minimum Lot Size/ Density Ranges	<u>Maximum FAR</u>	Consistent Zoning
Single-Family 3 (C-SF3)	1 to 5 acres	.01 to .09	C-R1:B4 C-R1:B5 C-RA:B4 C-RA:B5 C-RA:B6 C-ARP-2 C-RSP-0.2 to C-RSP-1 C-A2:BD C-A2:B4
Single-Family 4 (C-SF4)	20,000 sq. ft. to 1 acre (1–2 du/ac)	.01 to .15	C-RA:B3 C-RSP-1.1 to C-RSP-2 C-R1:BD C-R1:B3 C-RR:B3 C-RE:B3
Planned Residential (C-PR)	1 unit per 1 to 10 acres	.01 to .09	C-RMP-0.1 to C-RMP-1

Low Density Residential

The following low density residential land use categories (minimum lot sizes of 20,000 square feet or less) are established for single-family and multi-family residential development in areas where public services and some urban services are available and where properties are not typically limited by physical hazards or natural resources.

Land Use Category	Minimum Lot Size/ Density Ranges	<u>Maximum</u> FAR	Consistent Zoning
Single-Family 5 (C-SF5)	10,000 to 20,000 sq. ft. (2–4 du/ac)	.01 to .25	C-R1:B2 C-RA:B2 C-RR:B2 C-RSP-2.1 to RSP-4 C-A2:B2
Single-Family 6 (C-SF6)	Less than 10,000 sq. ft. (4–7 du/ac)	.01 to .3	C-R1 C-R1:B1 C-RA:B1 C-RSP-4.1 to C-RSP-0.5
Multi-Family 2 (C-MF2)	1 to 4 du/ac	.01 to .3	C-R2 C-RMP-1 to C-RMP-4

Low to Medium Density Residential

The following low to medium density residential land use categories (from 5 to 10 units per acre) are established where moderate density single-family and multi-family residential development can be accommodated in areas that are accessible to a range of urban services near major streets, transit services, and neighborhood shopping facilities.

Land Use Category	Density Range	<u>Maximum</u> FAR	Consistent Zoning
Multi-Family 3 (C-MF3)	5 to 10 du/ac	.1 to .3	C-RMP-5 to C-RMP-10

(PC app. 1/9/12, 9/19/11, 7/29/10)

[Adapted from CWP Policy CD-8.6, pp. 3-35 to 3-39]

C-CD-24 Commercial/Mixed-Use Land Use Categories and Intensities. Establish commercial/mixed-use land use categories to provide for a mix of retail, office, and industrial uses, as well as mixed-use residential development, in a manner compatible with public facilities, natural resource protection, environmental quality, and high standards of design. Mixed-use developments are intended to incorporate residential units on commercial properties, including on-site housing for employees, thereby contributing to affordable housing and reduced commutes. The following criteria shall apply to any mixed-use development:

1. For parcels larger than 2 acres in size, no more than 50% of the new floor area may be developed for commercial uses, and the remaining new floor area shall be developed for new housing.

For parcels 2 acres and less in size, no more than 75% of the new floor area may be developed for commercial uses, and the remaining new floor area shall be developed for new housing.

2. Projected peak-hour traffic impacts of the proposed mixed-use development are no greater than that for the maximum commercial development permissible on the site under the specific land use category.
3. Priority shall be given to the retention of existing visitor and neighborhood serving commercial uses.
4. The site design fits with the surrounding neighborhood and incorporates design elements such as podium parking, usable common/open space areas, and vertical mix of uses, where appropriate. In most instances, residential uses ~~should~~ shall be considered above the ground floor or located in a manner to provide continuity of store frontages, while maintaining visual interest and a pedestrian orientation.
5. For projects consisting of low income and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may only be exceeded in areas with acceptable traffic levels of service — but not to an amount sufficient to cause an LOS standard to be exceeded. In all cases, FAR may only be exceeded if coastal resources are otherwise protected, consistent with applicable LCP policies.

Renovations not resulting in additional square footage will be exempt from the above requirements if consistent with the requirements of the Marin County Jobs-Housing Linkage Ordinance, Chapter 22.22 of the Development Code. The following categories shall be established for commercial land uses:¹

General Commercial/Mixed Use (C-GC). The General Commercial mixed-use land use category is established to allow for a wide variety of commercial uses, including retail and service businesses, professional offices, and restaurants, in conjunction with mixed-use residential development. The Development Code includes permitted and conditional uses and development standards for the zoning districts consistent with this designation. The Land Use Policy Maps provide maximum floor area ratio (FAR) standards for this designation. Residential development located in a mixed-use development within this designation shall be included in the permissible amount of development under these maximum FARs. For projects consisting of low and very low income affordable units, the maximum FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the maximum FAR may be exceeded in areas with acceptable traffic levels of service – but not to an amount sufficient to cause an LOS standard to be exceeded. Any maximum FAR exceedances shall only be allowed if coastal resources are otherwise protected, as indicated above.

Consistent Zoning: C-CP
C-H-1
C-RMP-.1 to C-RMP-30

Neighborhood Commercial/Mixed Use (C-NC). The Neighborhood Commercial/Mixed Use land use category is established to encourage smaller-scale retail and neighborhood and visitor-serving office and service uses in conjunction with residential development oriented toward pedestrians and located in close proximity to residential neighborhoods. The Development Code includes permitted and conditional uses and development standards for the zoning districts consistent with this designation. The Land Use Policy Maps provide for maximum floor area ratio (FAR) standards for this

¹Note that the zoning designations listed in each category are examples of consistent zoning and are not the only possible consistent zoning designations. A complete list of permitted and conditional uses and development standards can be found in the Development Code. Educational, charitable, and philanthropic institutions such as schools, libraries, community centers, museums, hospitals, child care centers, and places of worship may be permitted in any commercial area.

designation. Residential development located in a mixed-use development within this designation shall be included in the permissible amount of development under these maximum FARs. For projects consisting of low and very low income affordable units, the maximum FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the maximum FAR may be exceeded in areas with acceptable traffic levels of service – but not to an amount sufficient to cause an LOS standard to be exceeded. Any maximum FAR exceedances shall only be allowed if coastal resources are otherwise protected, as indicated above.

Consistent Zoning: C-VCR
C-RMPC
C-VCR:B2

Recreational Commercial (C-RC). The Recreational Commercial land use category is established to provide for resorts, lodging facilities, restaurants, and privately owned recreational facilities, such as golf courses and recreational boat marinas. See the Development Code for a complete list of permitted and conditional uses and development standards. Refer to the Land Use Policy Maps for commercial maximum Floor Area Ratio (FAR) standards. For projects consisting of low and very low income affordable units, the maximum FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the maximum FAR may be exceeded in areas with acceptable traffic levels of service – but not to an amount sufficient to cause an LOS standard to be exceeded. Any maximum FAR exceedances shall only be allowed if coastal resources are otherwise protected, as indicated above.

Consistent Zoning: C-RCR

(PC app. 2/13/12, 11/7/11, 10/26/09)

[Adapted from CWP Policy CD-8.7, pp. 3-39 to 3-41]

C-CD-25 Public Facility, Quasi-Public Facility, and Open Space Land Use Categories. Lands used for public facilities and quasi-public institutional purposes, including airports, schools, hospitals, cemeteries, government facilities, correctional facilities, power distribution facilities, sanitary landfills, and water facilities, are designated Public Facility or Quasi-Public Facility, depending on the nature of their use. The Public Facility category is established for land owned by a governmental agency and used as a public institution. The Quasi-Public Facility category is provided for land owned by a nongovernmental agency that is used as an institution serving the public. A Public Facility or Quasi-Public Facility designation may be combined with another land use designation. In such instances, the applicable standard of building intensity is that for Public or Quasi-Public Facility, as depicted on the Land Use Policy Maps. Lands in public ownership for open space purposes, such as recreation, watershed, and habitat protection and management, are designated Open Space. In addition, private lands may be designated Open Space when subject to deed restrictions or other agreements limiting them to open space and compatible uses. Lands designated Open Space are subject to a maximum FAR of .01 to .09. The following categories shall be established for public and quasi-public land use. The zoning designations listed are examples of consistent zoning and are not the only possible consistent zoning designations.

Public (C-PF) Consistent zoning: PF
PF-RSP-.05 to PF-RSP-7
PF-RMP-.01 to PF-RMP-16
PF-ARP-20
C-PF-ARP-20

Quasi-Public (C-QPF) Consistent zoning: C-RMP-.1

C-RA:B-1

Open Space (C-OS) Consistent zoning: C-OA
(PC app. 9/19/11, 10/26/09)

[Adapted from CWP Policy CD 8.9, pp. 3-45 to 3-46]

C-CD-26 Multi-family Residential Development in Multi-family Zones. Require multi-family development in certain multi-family zoning districts consistent with the C-MF2, C-MF3 and C-NC land use designations, including the C-R2, C-RMP and C-RMPC zoning districts, if parcel size and density permit. Prohibit development of single-family dwellings in multi-family zones unless the Director finds that multi-family development is infeasible or impractical based on physical site constraints, environmental constraints, or significant incompatibility with neighborhood character.

(PC app. 11/7/11, 7/29/10)

[Adapted from November 2009 Draft Housing Element Program 1.f, p. V-3]



Community Specific Policies

Background

The Marin County Coastal Zone is home to distinctive towns and villages that have a strong sense of place (see Map 16 – Community Areas). The character of these communities depends in large part on their physical setting, the nature of land uses within them, and their visual appearance. The desire to maintain local community character is reflected in the various Community Plans that have been prepared for these communities with strong resident participation. The Community Specific policies that follow have been drawn from the County-adopted Community Plans, and their inclusion here is a means of ensuring that applicable land use policies of the Plans are firmly rooted in the Local Coastal Program (LCP). In this way, these policies will be applied to the review of coastal permits for development proposed within the Coastal Zone.

Although Marin County's coastal communities reflect a long-standing commitment to maintain the characteristics that draw residents and visitors to them, changing economics and land development practices could threaten community character. Achieving a balance between local- and visitor-serving businesses continues to be a challenge in Marin County, as elsewhere along California's coast. At the same time, the Coastal Act places a high priority on visitor-serving facilities, particularly lower-cost facilities, and visitors as an important part of the local economy.

The Coastal Act provides that permitted development shall be visually compatible with the character of surrounding areas. Furthermore, special communities and neighborhoods that are popular visitor destination points are to be protected. Marin County's coastal villages draw visitors because of their special characteristics, beautiful natural surroundings, and close proximity to the coast. The protection of such features is an important goal of Coastal Act policies.

The character of Marin County's coastal villages is an important factor in their desirability as places to live and visit. The LCP strongly protects community character, in part through the policies drawn from the Community Plans, some of which are highly specific to particular neighborhoods or sites. Protection is also provided through more general Community Development policies, which are applicable throughout the entire Coastal Zone.

Policies

Muir Beach:

C-MB-1 Community Character of Muir Beach. Maintain the small-scale character of Muir Beach as a primarily residential community with recreational, small scale visitor, and limited agricultural use.

(PC app. 11/7/11, 7/29/10)

~~{New policy, not in Unit I or II}~~

Stinson Beach:

C-SB-1 Community Character of Stinson Beach. Maintain the existing character of residential, small-scale commercial and visitor-serving recreational development in Stinson Beach. New development must be designed to be consistent with community character and protection of scenic resources.

[BOS app. 7/30/2013]

(PC app. 9/19/11, 7/29/10)

~~{Adapted from Unit I New Development and Land Use Policy 29, p. 79}~~

C-SB-2 Limited Access in Seadrift. Allow only limited public access across the open space area generally located north of Dipsea Road and adjacent to Bolinas Lagoon in the Seadrift subdivision to protect wildlife habitat subject to the Deed of an Open Space and Limited Pedestrian Easement and Declaration of Restrictions as recorded March 26, 1986 as Instrument No. 86-15531. This area includes parcels 195-070-35 and 36; 195-080-29; 195-090-44; 195-320-62 and 78; and 195-340-71, 72, and 73.

(PC app. 1/9/12, 9/19/11, 7/29/10)

~~{Concept adapted from Unit I New Development and Land Use Policy 33, p. 80}~~

C-SB-3 Density and Location of Development in Seadrift. Development of the approximately 327 lots within the Seadrift Subdivision shall be allowed consistent with the provisions of the July 12, 1983 Memorandum of Understanding for the settlement of the litigation between Steven Wisenbaker and the William Kent Estate Company, and the County of Marin, and consistent with the terms of the March 16, 1994, Settlement Agreement in the litigation titled Kelly et al. v. California Coastal Commission, Marin County Superior Court Case No. 152998 between the Seadrift Association and the County of Marin. Minimum lot sizes shall be as shown on the final subdivision maps approved by Marin County, as modified by the referenced settlement agreements. See Appendix 5: Seadrift Settlement Agreement.

[BOS app. 7/30/2013]

(PC app. 1/9/12, 9/19/11, 07/29/10)



~~[Adapted from Unit I Location and Density of New Development Policy 36, p. 81]~~

C-SB-4 Easkoot Creek. Restore Easkoot Creek to improve habitat and support natural processes.
(PC app. 11/7/11, 10/26/09)

~~[Adapted from Stinson Beach Community Plan, 1983, Environmental Land Use Policy D, p. 28]~~

C-SB-6 R-2 Zoning. Maintain the existing R-2 zoning in Stinson Beach in order to protect and maintain the existing character of the community. Site and design development so as to minimize septic tank problems and the cumulative impacts of such development on public access.
(PC app. 9/19/11)

~~[Adapted from Unit I Location and Density of New Development Policy 29, p. 79]~~

C-SB-7 Repair or Replacement of Structures. Allow the repair or replacement of existing duplex residential uses on parcels less than 7,500 square feet in the R-2 zoning district that are damaged or destroyed by natural disaster in Stinson Beach, so long as such repair/replacement is consistent with other applicable LCP policies.
(PC app. 9/19/11)

~~[Adapted from Unit I Location and Density of New Development Policy 29, pg. 79]~~

Bolinas

C-BOL-1 Community Character of Bolinas.

Maintain the existing character of residential, small-scale commercial and visitor-serving, and agricultural uses in Bolinas.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 7/29/10)

~~[Adapted from the Bolinas Community Plan, Tourist Accommodations Policy 1, p. 12]~~

C-BOL-3 New Development on the Bolinas Gridded Mesa. Permit new construction and redevelopment and rehabilitation of existing structures on the Bolinas Mesa where consistent with the LCP and in accordance with adopted policies of the Bolinas Gridded Mesa Plan, which has been certified by the California Coastal Commission.

(PC app. 11/7/11, 7/29/10)

~~[Adapted from Unit I Location and Density of New Development Policy 40, p. 86]~~



Olema

C-OL-1 Community Character of Olema. Maintain Olema's existing mix of residential, small-scale commercial and visitor-serving, and open space land uses and small-scale, historic community character. Minimize impacts of future development in the hillside area of Olema with the following design standards:

1. Cluster structures on more level areas away from steep road cuts on Highway One and off upper grassy slopes, which shall be maintained open to protect their visual character.

2. Incorporate and reflect the historic character of Olema and existing recreational uses in project design. The height of structures shall be in keeping with the character and scale of the surrounding community to minimize visual impacts on public views, including those associated with adjacent federal parklands, Highway One, and Sir Francis Drake Boulevard.
3. Provide pedestrian paths as appropriate to nearby federal park activity areas.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 3.b(5), p. 45]

Point Reyes Station

C-PRS-1 Community Character of Point Reyes Station. Maintain the existing mix of residential and small-scale commercial and visitor-serving development and small-scale, historic community character in Point Reyes Station.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 7/29/10)

[New policy, not in Unit I or II]

C-PRS-2 Commercial Infill. Promote commercial infill within and adjacent to existing commercial uses.

[BOS app. 2/26/2013]

(PC app. 2/13/12, 9/19/11, 7/29/10)

[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 3.c, p. 46]

C-PRS-3 Visitor-Serving and Commercial Facilities. Encourage development of additional visitor-serving and commercial facilities, especially overnight accommodations. ~~Continue to support the recommendations of the Point Reyes Station Community Plan to establish~~ overnight accommodations in the Grandi Building (Assessor Parcel Number 119-234-01) and Assessor Parcel Number 119-240-55, located at the junction of Highway One and Point Reyes – Petaluma Road (See also C-PRS-4 below).

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 3.c, p. 46]



C-PRS-4 Junction of Highway One and Point Reyes – Petaluma Road. Permit visitor-serving and commercial uses on APN 119-240-55, located at the junction of Highway One and the Point Reyes – Petaluma Road, which appears to have ~~has~~ development potential for up to a small 20-unit motel, cottages, hostel, or similar facility. This site ~~is also~~ may be a suitable location for up to 15 units of affordable housing. To protect the site's visual and environmental qualities, new development shall be sited and designed to minimize view and traffic impacts on nearby public roads, protect Lagunitas Creek and adjacent riparian vegetation from the impacts of erosion and water quality degradation, and minimize slope disturbance. Development shall be clustered, limited in height and scale to that which is compatible with the surrounding area, and shall provide adequate waste disposal on site.

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 3.c, p. 46]

C-PRS-5 Criteria for New Development in Point Reyes Station. New residential development in Point Reyes Station shall meet the following criteria:

1. **Building Height.** The height limit for residential structures shall be regulated as follows: In areas other than ridgeline lots, no part of a primary building shall exceed 25 feet above natural grade and no part of an accessory building shall exceed 15 feet above natural grade. New development near ridgelines shall be sited and designed so that rooflines are below the visual plane of ridges when viewed from Point Reyes-Petaluma Road or Highway One. Where a ridge lot is too flat to allow placement of new construction below the visual plane of the ridge, up to a maximum of 18 feet above natural grade shall be imposed.
2. **Building Size.** The maximum floor area allowed on any lot located in the planning area shall be 4,000 square feet. For purposes of this community-specific policy, “floor area” includes the sum of the gross horizontal areas of all floors of the building or buildings measured from exterior faces of exterior walls excluding only unenclosed horizontal surfaces, such as balconies, courts, decks, porches, and terraces. To clarify the intent of the preceding two sentences, “floor area” is defined to include the total floor area of any detached structures and the total floor area of any garage. It is not the intention of this program to make any existing building, which complied with building regulations at the time of its construction, nonconforming with respect to floor area limitations (see Development Code Chapter 22.130 for definitions of “floor area” and “building area” applicable outside of the Point Reyes Station Community Area).
3. **Building Size Exceptions.** Exceptions to maximum permitted floor area may be permitted upon a determination by the Community Development Agency Director, in consultation with the Point Reyes Station Community, that the proposed development:
 - a. Maintains adequate setbacks from property lines and surrounding development;
 - b. Is located on a parcel which is large enough (generally greater than one acre) to accommodate the additional floor area while maintaining consistency with the surrounding built environment with respect to height, mass, and bulk;
 - c. Is adequately screened by existing and proposed vegetation;
 - d. Is adequately screened by the topography of the property or of surrounding properties; and
 - e. Would not significantly limit or reduce sun and light exposure to adjacent properties.
 - f. Protects significant public views and is compatible with the natural and built environment, including through siting and design.
4. **Landscaping.** Require landscape and irrigation plans for all new developments or major modifications to existing buildings. Where applicable, preservation of natural habitats and installation of additional plants native to the Point Reyes Station area is encouraged. Proposed trees and shrubs, when mature, should not deprive adjoining properties of views or sunlight. Weedy and/or invasive plants such as Eucalyptus, Acacia, Monterey Pine and Pampas Grass are discouraged. The choice of plants ~~should~~ shall be native and non-invasive species generally similar to native species in the area guided by the Point Reyes Station Landscaping Guide in the Point Reyes Station Community Plan. Non-native trees and shrubs which traditionally have been grown in the developed portions of Point Reyes Station are allowed. By incorporating these plants in new landscaping plans, owners can achieve a pleasing continuity with the existing landscape pattern of the community. These non-native species include:

<u>Common name</u>	<u>Scientific name</u>
<u>Black locust</u>	<u>Robinia pseudoacacia</u>
<u>California black walnut</u>	<u>Juglans hindsii</u>
<u>Fruit trees (particularly apple, plum, persimmon)</u>	
<u>Hawthorn</u>	<u>Crataegus laevigata</u>
<u>Magnolia</u>	<u>Magnoliaceae (several species)</u>
<u>Shrub roses</u>	<u>Rosa spp.</u>

(PC app. 9/19/11, 7/29/10)

[Adapted from the Point Reyes Station Community Plan Programs RL 3.3b, c and e, pp. 32–33]

C-PRS-6 Lighting. Light fixtures shall be mounted at low elevations (eight feet or less) and fully shielded to direct lighting downward. Lighting along walkways should be mounted on low elevation bollards or posts. Floodlighting shall be discouraged. Exterior lighting fixtures should complement the architectural style of structures and be the minimum necessary for public safety.

(PC app. 9/19/11, 7/29/10)

[Adapted from the Point Reyes Station Community Plan Policy CL 4.1.o, p. 21, and Program RL 3.4a, p. 34]

C-PRS-7 Point Reyes Affordable Homes Project. Development of the 18.59-acre property consisting of Assessor’s Parcels 119-260-02 through 06 (formerly 119-240-45), 119-240-02 through 13 (formerly 119-240-46, 57 and 58) and consisting of Areas A, B, C, D, E and F as depicted on Exhibit E, shall be subject to the following land use designations, ~~as defined in the Marin Countywide Plan and further incorporated as shown in~~ Appendix G to the LCP: The land use designation for Areas A and B shall be C-MF-2 (Coastal, Multiple-Family, one to four units per acre maximum residential density). The land use designation for Area C shall be C-SF-4 (Coastal, Single-family Residential, one to two units per acre). The land use designation for Areas D and E shall be C-NC (Coastal, Neighborhood Commercial, one to 20 units per acre maximum residential density, 30% to 50% commercial floor area ratio). The land use designation for Area F shall be C-OS (Coastal, Open Space).

The entire 18.59 acres shall be subject to a single site development plan consisting of Areas A, B, C, D, E and F. The site development plan shall be subject to review and approval by the California Coastal Commission as an amendment to the LCP. Any coastal development permit or permits for development of any portion of the site shall be consistent with the approved site development plan. The site development plan shall indicate the kinds, locations, and intensities of uses allowable in accordance with the following requirements:

1. Total number of residential units on the entire 18.6 acre site shall not exceed 36.
2. Area A shall be developed with a maximum of seven detached affordable and/or market rate for-sale units ranging in size from approximately 900 to 1,155 square feet.
3. Area B shall be developed with a maximum of 27 rental affordable units ranging in size from approximately 1,440 to 1,720 square feet and a manager’s unit/community building of approximately 2,180 square feet.
4. No more than two residential units may be developed within Area C.
5. A minimum of 12 public parking spaces shall be provided within Area D.
6. A minimum of two acres shall be reserved for a future community-serving use or project that provides a significant public benefit, as demonstrated by the Review Authority within Area E.
7. Future use of the approximate 18.59 acre area depicted on Exhibit E, including all wetlands shall be consistent with the LCP, including provisions which mandate a 100-foot minimum buffer as measured landward from the edge of the wetlands.

[BOS app. 2/26/2013]

(PC app. 9/19/11)

~~{Adapted from Unit II New Development and Land Use Policy 8.b, p. 210}~~

Inverness

C-INV-1 Community Character of Inverness. Maintain the existing character of residential and small-scale commercial and visitor-serving development in the Inverness Ridge communities.

~~[BOS app. 12/11/2012]~~

~~(PC app. 9/19/11, 7/29/10)~~

~~[New policy, not in Unit I or II]~~

C-INV-3 Paradise Ranch Estates Design Guidelines. Future development in Paradise Ranch Estates should be consistent with maintaining the existing exclusively residential nature of the community, and should consider the community's unique characteristics such as substandard roads and the need to protect public viewsheds from adjacent parklands and other public areas. Apply the following guidelines for development within Paradise Ranch Estates:

1. Protection of Visual Resources.

- a. In areas where structures may be seen from adjacent parklands (primarily the north, south and west sides of the subdivision) structures shall be screened by existing vegetation to the maximum extent possible. Structures on or near ridgelines shall not be higher than the tree canopy, even if the Zoning Ordinance would otherwise permit taller buildings. The purpose of this measure is to prevent the presently tree-covered silhouette of the ridgeline from being visually disrupted. In addition, the structures will be better-screened. It is noted that the west side is adjacent to Park Wilderness areas.
- b. In areas where structures may be visible, dark earth tones shall be used to ensure the least amount of visual intrusion into the landscape.
- c. To minimize grading and visual impacts from adjacent parkland, new structures along Pine Crest Road shall be located within 150 feet of the front property line.
- d. To minimize visual impacts on adjacent parkland, structures visible from the park on the northwest (Pine Crest and Upper Roberts) and southwest (Elizabeth Place, ends of Sunnyside and Dover) sides of the subdivision shall be oriented such that the narrower end of the structure faces the park to ensure the maximum opportunity to take advantage of the existing tree cover.
- e. An analysis of the visual impacts from structures that might result from the siting and construction of the septic system shall be included with development applications. The septic system shall be designed and sited to minimize tree removal which could have a visual impact.
- f. Use of colors and materials consistent with the woodland character of the subdivision and the vernacular building style of the area should be observed to avoid obtrusive visual impact.



2. Public Service Guidelines. Paving and drainage improvements along the road frontage of a property may be required for all-new structures. Off-site improvements may also be required in areas where roadways presently do not meet County standards. These areas include the following:

- a. Certain segments of Upper Roberts Road.
- b. Douglas Drive adjacent to Assessor Parcel Numbers 114-130-34 and 114-130-24.
- c. Dover Drive adjacent to Assessor Parcel Number 114-130-25.

If parcels that presently are not part of the Paradise Ranch Estates Permanent Road Division acquire access over subdivision roadways in the future, joining the assessment district shall be a condition of approval.

3. Protection of Trees. Structures and roads should be sited to avoid tree removal. However, where it is necessary to clear existing vegetation, ecological principles of natural plant success should be observed. In some circumstances, removal of dead or older diseased trees may be desirable for siting purposes, thus promoting success of younger, more vigorous vegetation. However, dead trees also serve as valuable habitat for some species, so their complete removal should be avoided as appropriate. Such tree removal is only allowed consistent with other LCP policies.
4. Lot Consolidation and Acquisition. The County shall process coastal permit applications affecting lots identified for consolidation in the Paradise Ranch Estates Lot Consolidation Plan and lots identified for acquisition into Point Reyes National Seashore in accordance with all applicable policies and standards of the LCP, and will notify the Coastal Conservancy and Point Reyes National Seashore of such development proposals, respectively.

(PC app. 7/29/10)

~~[Adapted from Unit II New Development and Land Use Policy 8.c(4)(c)(2), pp. 212-214]~~

C-INV-4 Road and Path Maintenance in Inverness. Maintain existing residential streets at current improvement standards. Unimproved residential roadways should be improved to minimal all-weather travel standards such as crushed rock by owners of land whose frontages abut such roadways. Continue to maintain existing paths and encourage new pathways.

~~(PC app. 11/7/11, 10/26/09)~~

~~[Adapted from Inverness Community Plan, Policy 7.00, p. 102-103]~~

East Shore

C-ES-I Community Character of the East Shore of Tomales Bay. Maintain the existing character of low-density, residential, agriculture, mariculture, visitor-serving, and fishing or boating-related uses. Allow expansion or modification of development for visitor-serving or commercial development on previously developed lots along the east shore of Tomales Bay, provided that such expanded uses are compatible with the small scale and character of existing development along the Bay.



1. Nick's Cove. Continue to support visitor-serving uses on this site, which includes a restaurant and overnight guest accommodations. Overnight accommodations, such as bed and breakfast facilities, are encouraged consistent with availability of water supply, sewage disposal, and parking facilities. Any expansion or reconstruction of Nick's Cove restaurant shall be designed to minimize visual impacts and provide maximum public physical and visual access to the shoreline. Structures on the upland property shall be limited in height to that which is compatible with the scale and character of surrounding development, while those on the bayside of Highway One shall not exceed the height of the existing restaurant.
2. Marshall. Maintain and encourage the present residential/commercial mixed use and encourage locally serving commercial uses.
3. Marshall Boatworks. Continue to support the Marshall Boatworks area as a residential/commercial mixed use area and as a potential community activity center and gathering place.
4. Marconi Conference Center State Historic Park. Continue to support the Marconi Conference Center and State Historic Park to provide meeting and retreat services for the Bay Area, consistent with historic and natural resource protection guidelines in the Marconi Conference Center State Historic Park General Plan.
5. Marconi Cove Marina. Support visitor- and local-serving, as well as marine-related, facilities at the Marconi Cove property. Expanded marina facilities, including additional boat slips, fishing pier, and storage space may also be desirable.

~~[BOS app. 12/11/2012]~~

~~(PC app. 9/19/11, 1/24/11)~~

~~[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 3.e, pp. 48-51]~~

C-ES-2 Protection of Trees. Identify and protect significant stands of trees in the Planning Area.

~~(PC app. 9/19/11, 7/29/10)~~

~~[Adapted from the East Shore Community Plan, Program EQ 2-1, p. 48]~~

C-ES-3 Prioritization of Water-Related Uses. Prioritize mariculture, boat repair, fishing, water-related public recreation and scenic resources over other uses along the shoreline.

~~(PC app. 9/19/11, 7/29/10)~~

~~[Adapted from the East Shore Community Plan, Policy CD-7, p. 51]~~

C-ES-4 Commercial Land Use. Limit development of commercial and public facilities to existing activity centers, such as Nick's Cove, historic Marshall or near the Post Office/Marshall Boatworks and Marconi area.

~~(PC app. 9/19/11, 7/29/10)~~

~~[Adapted from the East Shore Community Plan, Policy CD-21, p. 55]~~

C-ES-5 Local-Serving Facilities. Consider incorporating local-serving facilities in new development, where appropriate.

~~(PC app. 9/19/11, 7/29/10)~~

~~[Adapted from the East Shore Community Plan, Policy CD-24, p. 56]~~

C-ES-6 New Marina Development. New marina development shall make provision for use of facilities by local commercial and recreation boats.

~~(PC app. 9/19/11, 7/29/10)~~

~~[Adapted from the East Shore Community Plan Program CD-24-2, p. 56]~~

Tomales

C-TOM-1 Community Character of Tomales. Maintain the existing character of residential and small-scale commercial and visitor-serving development in the community of Tomales. No expansion of commercial zoning is recommended since there is adequate undeveloped land zoned for visitor-serving and commercial development for anticipated future needs. Encourage development of overnight accommodations such as a motel, cottages, and a hostel. New development shall reflect the historic character of the town's architecture and shall be set back from the creek which flows through commercially zoned areas.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 1/24/11)

[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 3.f, p. 51]



Dillon Beach

C-DB-1 Community Character of Dillon Beach. Maintain the existing character of residential and small-scale commercial and visitor-serving development in Dillon Beach and Oceana Marin. Dillon Beach Resort, including all properties zoned C-RCR and C-RMPC between Dillon Beach Road and Dillon Creek, would be an appropriate site for new development of a modest scale, ~~including a small~~ motel, cafe, delicatessen, or restaurant, and/or day-use facilities. Due to its proximity to the shoreline, the former Pacific Marine Station is an especially suitable area for facilities where many people can enjoy its prime location. The site offers opportunities, for example, for community services, a conference center, and/or a youth hostel. Limited residential development would be appropriate at the Dillon Beach Resort, provided it ~~is~~is developed as a secondary use in conjunction with visitor-serving uses. All development shall demonstrate adequate water supply and sewage disposal, and shall be sited out of sand dunes and other environmentally-sensitive areas. Building heights shall be limited to that which is compatible with the scale and character of the area. Existing C-RCR and C-RMPC zoning shall be maintained. Maintain existing C-RCR and C-APZ-60 zoning at Lawson's Landing.

[BOS app. 12/11/2012]

(PC app. 11/7/11, 7/29/10)

[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 3.g(1) & (2), pp. 51—52]

C-DB-2 Lawson's Landing. Retain Lawson's Landing as an important source of lower cost visitor serving access and recreational opportunities, including coastal-dependent water oriented activities such as boating and fishing. Pursuant to the Dillon Beach Community Plan and project approvals, require Sand Haul Road to be evaluated as a means to provide primary vehicular access to Lawson's Landing and to provide relief from traffic congestion in Dillon Beach Village, subject to full environmental review.

(PC app. 11/7/11, 09/19/11)

[Adapted from the Coastal Commission staff report for Lawson's Landing Appeal No. A-2-MAR-08-028]

C-DB-3 Oceana Marin. The zoning designations for the C-RMP parcels in Oceana Marin represent the low end of the residential density ranges specified in the Dillon Beach Community Plan for the respective parcels. Development at higher density ranges may be approved if subsequent studies demonstrate that additional development can be accommodated in accordance with Policies CD-4.6 and CD-10.6 through CD-10.16 of the Dillon Beach Community Plan, which has been certified by the California Coastal Commission.

~~(PC app. 11/7//11)~~

~~*[Adapted from Unit II New Development and Land Use Policy 8.h(7), p. 218]*~~

C-DB-4 Dillon Beach Community Plan. Refer to the Dillon Beach Community Plan, which has been certified by the California Coastal Commission, when reviewing Coastal Permits in the Dillon Beach area.

~~(PC app. 11/7//11)~~

~~*[New policy, not in Unit I or II]*~~



Energy (EN)

Background

Energy plays a critical role in the function of society. The way it is acquired, produced and utilized can have significant impacts on the health of the economy and community. With the continued commitment to environmental quality and resource conservation, and mounting concerns about the effects of greenhouse gas emissions on climate change, it is necessary to create a sustainable framework within which energy can serve its purpose with minimal impact.

Most of the energy used in Marin County is imported from outside California, and is drawn from non-renewable resources such as nuclear power, natural gas and coal. The necessity for a shift to renewable energy has grown considerably in recent years. Through increased public awareness of climate change and related energy issues and the establishment of energy-related legislation, the transition to renewable resources is slowly becoming a reality. In addition to shifting energy consumption to more renewable resources, the use of energy continues to become more efficient. Energy efficiency significantly reduces the rate at which limited non-renewable resources are consumed, which consequently reduces negative health and environmental impacts.

The Local Coastal Program (LCP) encourages improved energy efficiency through the implementation of specific energy standards for development, by providing public information about ways to increase energy efficiency, and by offering incentives for practicing energy efficiency and conservation in homes and businesses. The shift to renewable energy resources and the development of energy production facilities are also encouraged as deemed appropriate. While the LCP strongly supports renewable energy, it requires that any production facilities be carefully designed and sited to avoid and minimize potential impacts.

While the continued support of renewable energy has become a priority both locally and nationwide, there remains a concern that energy production facilities may pose a significant threat to important coastal resources. Nowhere is this more evident than in the Coastal Zone of Marin County, where the abundance of sensitive natural resources creates a setting susceptible to the potentially harmful effects that some facilities may impose. For instance, facilities such as power plants and those related to oil and gas drilling are known to inflict serious adverse impacts upon the surrounding environment, and therefore ~~may are~~ not be appropriate for Marin's Coastal Zone. However, it is recognized that certain small scale renewable

energy facilities (example: small scale solar and wind energy conversion) may be necessary for the greater public benefit, and thus may be allowed where appropriate.

The Coastal Act stresses the protection of coastal resources, although it acknowledges that some development of energy facilities and resources may be necessary. Sections 30260 through 30265 of the Act contain provisions for several types of energy development, including oil and gas development, thermal power plants, liquefied natural gas, and other related facilities. Renewable energy facilities such as those for the use of solar and wind resources are not directly addressed, however any proposals for facilities of this nature would be subject to ~~Sections 30250 through 30254~~ Chapter 3 of the Coastal Act, which address development in the Coastal Zone.

The Marin County Coastal Zone currently has no major energy or industrial facilities, although the possibility of two types of major energy development has been considered in the past: power plants and offshore oil development. The Coastal Act requires the Coastal Commission to designate specific areas of the Coastal Zone that are not suitable for siting new power plants or related facilities. In September 1978, the State Commission adopted “negative designations” for the Coastal Zone (subsequently revised in 1982). In Marin County, non-federal lands generally north of Olema were negatively designated (or excluded) for potential power plant development except those agricultural lands located north of Walker Creek, despite a recommendation from the Regional Commission supporting total exclusion of all lands north of Olema. This would have left these agricultural areas potentially open for possible development of power plants. ~~However, current LCP Unit II Policy 7 was certified by the CCC as part of the County’s LCP to prohibit “major energy or industrial development” while allowing the development of alternative energy sources such as solar and wind energy. The LCP maintains its previously certified prohibition on major energy and industrial development in the Coastal Zone.~~

In addition, the Gulf of the Farallones and Monterey Bay National Marine Sanctuaries have been established to border the Marin County Coastal Zone since the original LCP certification. The Sanctuaries enforce federal regulations that protect the bay and ocean waters adjacent to Marin. These federal regulations (CFR, Title 15, §922) prohibit harmful activities such as “exploring for, developing, or producing oil, gas, or minerals...” within the Sanctuaries to protect the sensitive resources found therein. Given the prohibition of such activities offshore, at least to the seaward extent of the Sanctuaries, it is less likely there would be any proposals for related on-shore facilities in the Coastal Zone in the foreseeable future.

Policies

C-EN-1 Energy Efficiency Standards. Integrate energy efficiency and conservation, and renewable energy requirements into the development review and building permit process where technically and financially feasible.

(PC app. 11/7/11, 4/27/09)

~~[Adapted from CWP Policies EN 1.1 and EN 2.2, pp. 3-82 and 3-85]~~

C-EN-2 Public Information and Education on Energy Efficiency. Provide information, marketing, training, and education to support energy efficiency and conservation, and renewable resource use. (PC app. 11/7/11, 4/27/09)

~~[Adapted from CWP Policies EN 1.3 and EN 2.4, pp. 3-82 and 3-85]~~

C-EN-3 Incentives for Energy Efficiency. Continue to offer incentives that encourage energy efficiency and conservation, and renewable energy practices.

(PC app. 11/7/11, 4/27/09)

[Adapted from CWP Policy EN-1.2, p. 3-82]

C-EN-4 Renewable Energy Resource Priority. Utilize local renewable energy resources and shift imported energy to renewable resources where technically and financially feasible at a scale that is consistent with the sensitivity of coastal resources. Preserve opportunities for development of renewable energy resources only where impacts to people, natural resources and views would be avoided or minimized. Support appropriate renewable energy technologies, including solar and wind conversion, wave and tidal energy, and biogas production through thoughtfully streamlined planning and processing, rules and other incentives that are all consistent with Policy C-EN-5.

(PC app. 1/9/12, 11/7/11, 1/24/11)

[Adapted from CWP Goal EN-2 and CWP Policies EN-2.1, 2.2 and 2.3, p. 3-85]

Program C-EN-4.a Study Renewable Energy Resource Potential. Work with other agencies to study the potential for renewable energy generation in the Coastal Zone, and identify areas with adequate capacity for renewable resources such as wind and solar power. Within areas identified, specify sites suitable for locating renewable energy facilities with the least possible impact, and evaluate mechanisms for protecting such sites for appropriate renewable energy facilities.

(PC app. 1/9/12, 11/7/11, 1/24/11)

[Adapted from CWP Policy BIO-1.a, p. 2-16, and CWP Program AG-1.f, p. 2-162]

Program C-EN-4.b Consider Policy to Allow the Creation of Local-Serving Renewable Energy Systems. Evaluate the future implementation of a policy that would allow local-serving renewable energy systems in the Coastal Zone. Such systems would provide energy service exclusively from renewable energy resources such as solar or wind power to one or more coastal communities.

(PC app. 9/19/11)

[New program, not in Unit I or II]

C-EN-5 Energy Production Facility Impacts. Ensure through siting, design, scale, and other measures that all energy production facilities are constructed to avoid where possible, and minimize where avoidance is not possible, impacts on public health, safety and welfare, public views, community character, natural resources, agricultural resources, and wildlife, including threatened or endangered species, bat populations, and migratory birds.

(PC app. 11/7/11, 1/24/11)

[Adapted from CWP Program PFS-5.d, p. 3-209]

C-EN-6 Energy and Industrial Development. The Coastal Zone contains unique natural resources and recreational opportunities of nationwide significance. Because of these priceless resources and the very significant adverse impacts which would result if major energy or industrial development were to occur, such development, both on and offshore, is not appropriate and shall not be permitted. The development of alternative energy sources such as solar or wind energy shall be exempted from this policy.

(PC app. 1/9/11, 11/7/11)

[Continued from LCP Unit II New Development and Land Use Policy 7, p. 209. This policy also carries forward Unit I Public Services Policy 2, p. 48]



Housing (HS)

Background

Housing is a vital component of Marin's coastal communities. ~~While the Local Coastal Program (LCP) is not required by the Coastal Act to address housing, it remains~~, and it is important to respond to current and future housing needs in the Coastal Zone, particularly in planning for sustainable communities by supplying housing affordable to the full range of the Coastal Zone's diverse community and workforce.

Provision of affordable and diverse housing opportunities in the Coastal Zone is important to provide decent housing for residents. The challenge of providing new housing compatible with existing community character and quality, as well as environmental constraints and resources, is ever-present. At the same time, the ~~LCP~~County is required to meet federal and state law with respect to providing low- and moderate-income housing, replacement housing, or any other obligation related to housing imposed by existing laws.

Assuring housing choices at prices within reach is also important indirectly in carrying out Coastal Act resource protection goals. The Coastal Act places a high priority on maintaining agriculture and mariculture as viable land uses in the Coastal Zone, and encourages provision of visitor-serving facilities including overnight accommodations. These land uses depend on the availability of local labor, and pay scales for workers in these industries tend to be relatively low. Provision of housing opportunities for those employed in the Coastal Zone is thus essential if these high-priority land uses are to be maintained.

The Coastal Act addresses housing in several ways. Section 30500.1 provides that the LCP is not required to include housing policies and programs. However, Section 30007 states that local governments are not exempt from meeting requirements of state and federal law with respect to providing low- and moderate-income housing or other obligations related to housing. Furthermore, as defined in Section 30108.5, the Coastal Act requires that the land use plan component of the LCP indicates types, location, and intensity of land uses and applicable resource protection and development policies.

Because the adopted Marin County Housing Element and Development Code include measures such as density bonuses and reduction in site development standards, which affect the intensity of land uses that can be allowed in the Coastal Zone, the LCP contains select housing policies. These policies ~~balance~~ achieve compliance with housing-related requirements of the Government Code and the Marin Countywide Plan's Housing Element, and with the Coastal Act requirement to specify the potential density of future development in the Coastal Zone, including residential development.

The LCP provides several measures to address low and moderate income housing needs in the Coastal Zone, such as affordable housing provisions and retention of zoning for small lots of 6,000 to 10,000 square feet. These needs are also addressed by LCP policies that support development of second units and agricultural worker housing where appropriate. To protect existing lower income units, the LCP also limits conditions under which such units can be demolished, although hazardous structures may be demolished even if no replacement housing is built. Finally, it should be noted that the County's draft Housing Element identifies several sites in the Coastal Zone that could potentially accommodate affordable housing.

Policies

C-HS-1 Protection of Existing Affordable Housing. Continue to protect and provide affordable housing opportunities for very low, low, and moderate income households. Prohibit demolition of existing deed restricted very low, low, and moderate income housing except when:

1. Demolition is necessary for health and safety reasons; or
2. Costs of rehabilitation would be prohibitively expensive and impact affordability of homes for very low, low and moderate income households; and
3. Units to be demolished are replaced on a one-for-one basis with units of comparable rental value on site or within the immediate Coastal Zone area.

(PC app. 9/19/11, 7/29/10)

~~{Adapted from Unit I New Development and Land Use Policy 22, p. 66, and Unit II New Development and Land Use Policy 4.a, p. 207}~~

C-HS-2 Density for Affordable Housing. Allow the maximum range of density for deed-restricted housing developments that are affordable to extremely low, very low or low income households and that have access to adequate water and sewer services.

(PC app. 9/19/11, 7/29/10)

~~{Adapted from the November 2009 Draft Housing Element Program I.d}~~

C-HS-3 Affordable Housing Requirement. Require residential developments in the Coastal Zone consisting of 2 or more units to provide 20 percent of the total number of units to be affordable by households of very low or low income or a proportional "in-lieu" fee to increase affordable housing construction, ~~consistent with the County's inclusionary housing policy.~~

(PC app. 9/19/11, 10/26/09)

~~{Adapted from the November 2009 Housing Element Policy H3.19, and County Code Section 22.22.020}~~

C-HS-4 Retention of Small Lot Zoning. Preserve small lot zoning (6,000 – 10,000 square feet) in Tomales, Point Reyes Station, and Olema for the purposes of providing housing opportunities at less expense than available in large-lot zones.

(PC app. 9/19/11, 10/26/09)

[Adapted from Unit II New Development and Land Use Policy 4.b, p. 207]

C-HS-5 Second Units. Consistent with the requirements of California Government Code Section 65852.2, continue to enable construction of well-designed second units in both new and existing residential neighborhoods as an important way to provide workforce and special needs housing. Ensure that adequate services and resources, such as water supply and sewage disposal, are available consistent with Policy C-PFS-1 Adequate Services.

(PC app. 9/19/11, 10/26/09)

[Adapted from the November 2009 Draft Housing Element Program 1.i]

C-HS-6 Regulate Short-Term Rental of Primary or Second Units. Regulate the use of residential housing for short term vacation rentals.

[BOS app. 7/30/2013]

(PC app. 9/19/11, 7/29/10)

[Adapted from the November 2009 Draft Housing Element Program 1.j]

Program C-HS-6.a Vacation Rental Ordinance

1. Work with community groups to develop an ordinance regulating short-term vacation rentals.
2. Research and report to the Board of Supervisors on the feasibility of such an ordinance, options for enforcement, estimated program cost to the County, and the legal framework associated with rental properties.

[BOS app. 7/30/2013]

(PC app. 9/19/11, 7/29/10)

[Adapted from the November 2009 draft Housing Element Program 1.j]

C-HS-7 Williamson Act Modifications to the Development Code. Allow farm owners in a designated agricultural preserve to subdivide up to 5 acres of the preserved land for sale or lease to a nonprofit organization, a city, a county, a housing authority, or a state agency in order to facilitate the development and provision of agricultural worker housing. Section 51230.2 of the Williamson Act requires that the parcel to be sold or leased must be contiguous to one or more parcels that allow residential uses and developed with existing residential, commercial, or industrial uses. The parcel to be sold or leased shall be subject to a deed restriction that limits the use of the parcel to agricultural laborer housing facilities for not less than 30 years. That deed restriction shall also require that parcel to be merged with the parcel from which it was subdivided when the parcel ceases to be used for agricultural laborer housing.

(PC app. 9/19/11, 7/29/10)

[Adapted from the November 2009 Draft Housing Element Program 2.j and Government Code Section 51230.2]

C-HS-8 Development of Agricultural Worker Housing Units in Agricultural Zones. Support policy changes that promote development of agricultural worker units in agricultural zones.

(PC app. 9/19/11, 7/29/10)

[Adapted from the November 2009 Draft Housing Element Program 2.l]

Program C-HS-8.a Administrative Review for Agricultural Worker Housing Units.

Establish an administrative Coastal Permit review process for applications for agricultural worker units in order to expedite the permitting process and facilitate development of legal agricultural worker units.

(PC app. 11/7/11, 7/29/10)

~~*{Adapted from the November 2009 Draft Housing Element Program 2.1}*~~

C-HS-9 Density Bonuses. Provide density bonuses for affordable housing in the Coastal Zone consistent with Government Code Section 65915 and Coastal Act Section 30604(f), ~~and the County's density bonus provisions in Chapter 22.24 (Affordable Housing Incentives)~~ to the extent that such increases in density are consistent with the provisions of the LCP.

(PC app. 11/7/11, 10/26/09)

~~*{New policy, not in Unit I or II}*~~



Public Facilities and Services (PFS)

Background

The villages of Marin County's Coastal Zone are surrounded by extensive public open space and agricultural land, with scattered farm-related housing. Most development in the Coastal Zone receives water and sewage services through individual property-specific systems managed by private landowners, since community water supply and sewage disposal systems are limited and exist only in some of the villages. This limited community service capacity is largely due to the local soil conditions and aquifer characteristics. Maintaining a balance between level of development and capacity of public services is essential to preserve service quality and avoid provision shortages. Without this balance, communities can experience such impacts as water pollution that could result from inadequate on-site sewage disposal, as well as public safety problems associated with an inadequate water supply.

Availability of water to support development in Marin's Coastal Zone depends on a variety of interrelated factors, including annual weather patterns, long-term climate trends, development of new facilities, as well as water conservation and management practices. Much of the water supply within the Coastal Zone is provided by public and private entities not under the direct jurisdiction of the County (see Map 20 – Public Facility Service Areas). Small water districts provide service in a number of areas, including Bolinas Community Public Utility District (BCPUD), Stinson Beach County Water District (SBCWD), Inverness Public Utility District (IPUD), and Muir Beach Community Services District (MBCSD). The community of Dillon Beach is served by two small independent water companies: the California Water Service Company (formerly Coast Springs Water Company) and the Estero Mutual Water System (EMWS).

SBCWD, MBCSD, and the Dillon Beach area primarily use groundwater for their water supplies while IPUD and BCPUD rely mainly on surface water. Beyond the current water service district boundaries, private wells or small mutual water systems rely on individual groundwater wells, surface water, or small

spring-based sources. Many of these sources occur in the limited areas of high water-yielding sediments in alluvial valleys, while much of the rest of the area is characterized by low-permeability fractured bedrock and thin alluvial deposits with too little saturated thickness to produce meaningful supplies of water.

Water supplies in some areas are currently constrained, including those served by the BCPUD and California Water Service Company (CWSC), where connection moratoria are in place. Other systems have frequent summer peaking problems in dry years, as do some individual wells. Most of the water service areas are projected to experience water supply deficits during extreme droughts, according to the Marin Countywide Plan environmental documents.

Sewage disposal is generally provided by individual on-site systems in much of the Coastal Zone, including along the East Shore of Tomales Bay, Point Reyes Station, Inverness Ridge, Olema, Stinson Beach, and Muir Beach, parts of Dillon Beach, and most of Bolinas. Other areas are served by community sewer facilities, or in a few cases, small package treatment plants. Soil and groundwater conditions can affect the feasibility of new on-site systems or, in some cases, the functioning of existing systems.

The Coastal Act connects the amount of new residential, commercial, and industrial development with the availability of adequate services. New development is directed by the Coastal Act to existing developed areas that are able to accommodate it or to other locations outside developed areas where adequate public services are available. Thus, whether within or outside existing developed areas, new development must be supported by adequate public services. Furthermore, the Coastal Act requires that public works facilities shall be designed and limited to accommodate needs generated by development permitted consistent with the Act. In other words, such facilities should be sized so as to provide adequate service to development, but not sized in such a way as to create growth-inducing effects. Where public works facilities can accommodate only limited new development, high priority should be accorded to coastal-dependent land uses, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, agriculture, and visitor-serving land uses.

The LCP proposes no new sewage treatment plants, water production facilities, or other public services or facilities. Instead, new development shall continue to rely on existing community service facilities, where capacity is adequate, or on new on-site water and sewage facilities, where those are feasible and can be developed consistent with LCP policies.

Policies

C-PFS-1 Adequate Public Services. Ensure that adequate public services (that is, water supply, on-site sewage disposal or sewer systems, and transportation including public transit as well as road access and capacity if appropriate) are available prior to approving new development, including land divisions. In addition, ensure that new structures and uses are provided with adequate parking and access. Lack of available public services, or adequate parking and access, shall be grounds for project denial or for a reduction in the density otherwise indicated in the land use plan.

[BOS app. 2/26/2013]

(PC app. 11/7/11, 1/24/11)

[Adapted from Unit II Public Services Policy 1, p. 187, and CWP Goal PFS 1, p. 3-198]

C-PFS-2 Expansion of Public Services. Limit new or expanded roads, flood control projects, utility services, and other public service facilities, whether publicly owned or not, to the minimum necessary to adequately serve development as identified by LCP land use policies, including existing development.

Take into account existing and probable future availability of other public services so that expansion does not accommodate growth which cannot be handled by other public service facilities. All such public service projects shall be subject to the LCP.

(PC app. 11/7/11, 9/19/11, 7/29/10)

[Adapted from Unit I Public Services Policy 1, p. 48]

C-PFS-3 Formation of Special Districts. Ensure that special districts are formed or expanded only where assessment for, and provision of, service would not induce new development inconsistent with policies of the LCP.

(PC app. 9/19/11, 7/29/10)

[Adapted from Coastal Act Section 30254]

C-PFS-4 High-Priority Visitor-Serving and other Coastal Act Priority Land Uses. In acting on any coastal project permit for the extension or enlargement of community water or community sewage treatment facilities, determine that adequate ~~treatment~~ capacity is available and reserved in the system to serve VCR- and RCR-zoned property, and other visitor-serving uses, and other Coastal Act priority land uses (i.e. coastal-dependent uses, agriculture, essential public services, and public recreation). In areas with limited service capacity (including limited water, sewer and/or traffic capacity), new development for a non-priority use, including land divisions, not specified above shall only be allowed if adequate capacity remains for visitor-serving and other Coastal Act priority land uses, including agricultural uses.

(PC app. 11/7/11, 7/29/10)

[Adapted from Unit I Public Services Policies 6 and 12, pp. 48-49]

C-PFS-5 Community Sewer Systems. Require new development within a village limit boundary to connect to a public sewer system if the sewer system is within 400 linear feet of the parcel on which development is proposed, unless the County Health Officer or applicable sewer service provider finds that such connection is legally prohibited, physically impossible, or otherwise infeasible.

(PC app. 9/19/11, 7/29/10)

[Adapted from County Code Section 18.06.050]

C-PFS-6 Sewage Disposal Systems and Protection of Water Quality. Require new and expanded sewage disposal systems to be designed, constructed, and maintained so as to protect the biological productivity and quality of coastal streams, wetlands, and other waters.

(PC app. 9/19/11, 7/29/10)

[New policy, not in Unit I or II]

C-PFS-7 Adequately Sized Sewage Disposal Systems. Require new and expanded sewage disposal systems to be sized adequately to meet the needs of proposed development, including any changes in type or intensity in use of an existing structure.

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit I Public Services Policy 9, p. 49]

C-PFS-8 Sewage Disposal Systems Requirements for New Lots. Require all sewage disposal systems on newly created lots to comply in all respects, without variance, with applicable County and state septic system regulations.

(PC app. 9/19/11, 1/24/11)

[Adapted from Unit I Public Services Policies 7 and 9, pp. 48-49, Unit II Public Services Policy 3.a, p. 189, and County Regulations Section 301]

C-PFS-9 Preference for On-Site Individual Sewage Disposal Systems. Require an individual sewage disposal system serving a building or buildings to be located on the same building site, lot, or parcel as the building(s). Where an existing legal parcel is found by the County Health Officer or designee to be unsuitable for an onsite sewage disposal system, the system may be located on a contiguous lot (provided the contiguous lot has sufficient replacement area) or parcel within a non-revocable easement specifically designated for such sewage disposal system. The non-revocable easement shall be surveyed and recorded with the County Recorder, and the easement shall provide for access to the site for maintenance of the sewage disposal system.

(PC app. 9/19/11, 7/29/10)

[Adapted from County Regulations Section 306]

C-PFS-10 Adequate On-Site Sewage Disposal Systems for Existing Development. Ensure that existing on-site sewage disposal systems function properly by complying with all rules and regulations of the Regional Water Quality Control Board, including any requirements adopted pursuant to AB 885. Where repairs to existing systems are necessary, take corrective action in the following priority order as appropriate:

1. Require connection to a public sewer, if the property is within 400 feet of a public sewer main and it is physically and legally possible to connect to such main; or
2. Require system repair using a standard drainfield; or
3. Require construction of an alternative or innovative system.

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit I Public Services Policy 7, p. 48, and County Regulations Section 304]

Program C-PFS-10.a Continue Stinson Beach Water Quality Monitoring Program.

Support the existing water quality monitoring program conducted by the Stinson Beach County Water District, consistent with the agreement with the Regional Water Quality Control Board.

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit I Public Services Policy 11, p. 49, and Unit I Location and Density of New Development Policy 34, p. 81]

Program C-PFS-10.b Support Septic Inspection, Monitoring, and Maintenance District(s) other than Stinson Beach.

Support establishment of one or more Septic Inspection, Monitoring and Maintenance District(s), drawing from the successful performance of the Stinson Beach County Water District that would include all or portions of unincorporated areas with septic systems. Modify applicable codes to enable inspection and monitoring of on-site septic systems in a risk-based, comprehensive, and cost-effective way.

(PC app. 9/19/11, 7/29/10)

[Adapted from CWP Program WR 2.i, p. 2-61]

Program C-PFS-10.c Update Septic Standards. Consider revising County septic regulations to streamline the regulatory process, prioritize monitoring of on-site wastewater systems, and provide incentives (such as reduced permit fees) for homeowners to repair their systems.

(PC app. 9/19/11, 7/29/10)

[Adapted from CWP Program PFS 3.e, p. 3-206]

C-PFS-11 Alternative On-Site Sewage Disposal Systems. Approve alternative on-site sewage disposal systems where the County Health Officer or designee determines that (a) sewage cannot be

disposed of in a sanitary manner by a standard septic system, or (b) that an alternative system will protect the public health in a manner equal to or better than a standard system.

Approval of an alternative system shall require, at a minimum:

1. Design plans signed by a professional who is knowledgeable and experienced in the field of on-site sewage disposal;
2. Submittal of a site-specific contingency plan which shall outline specific actions to be taken to repair, expand, or replace the system, should it fail to operate as planned;
3. Operation, maintenance, and monitoring instructions for the system owner; and
4. A written statement granting permission to the Health Officer to access the property to periodically assess system functioning.

In addition to a construction permit, an operating permit shall be required for all alternative systems. The operating permit shall be renewed annually or as otherwise specified by the Health Officer. The Health Officer has discretion to exempt from the operating permit requirement alternative systems installed solely for repair of existing systems.

(PC app. 9/19/11, 1/24/11)

[Adapted from Unit I Public Services Policy 8, p. 49, Unit II Public Services Policy 3.a, p. 189, and County Regulations Sections 801, 802, and 803]

Program C-PFS-11.a Continue Alternative Septic System Monitoring. Monitor the operation of alternative systems and recommend use of new innovative systems if they perform well.

(PC app. 9/19/11, 7/29/10)

[Adapted from CWP Program WR 2.f, p. 2-61]

Program C-PFS-11.b Research And Implement Safe, Effective, And Innovative Waste Water Disposal Options. Research the potential to expand the use of innovative waste water disposal methods—such as pretreatment drip dispersal septic systems, gray water systems, waterless urinals, and other techniques—and community systems to help reduce potential for contaminants and nutrients to pollute water bodies, create human health hazards, and cause algal blooms. Continue to allow carefully monitored demonstration projects for experimental systems to ensure consistency with local public health protection standards. Revise applicable Codes to permit technologies and practices that prove safe and effective. As soon as innovative waste water disposal options are approved, allow their use as appropriate.

(PC app. 9/19/11, 7/29/10)

[Adapted from CWP Program WR 2.e, p. 2-60]

C-PFS-12 Limited Use of Off-Site Septic Systems. Allow construction of an off-site individual or community septic system (that is, on a site other than as allowed by LCP Policy C-PFS-9) only where the system would:

1. Provide for correction of one or more failing sewage disposal systems that serve existing development where the County Health Officer has determined that no other reasonable corrective action exists, or
2. Serve one of the following land uses that cannot be constructed feasibly in any other way: coastal-dependent land use, shoreline public access facility, or affordable housing within a village limit boundary.

Approval of an off-site septic system requires voluntary participation by property owners and findings that (1) it would comply with all applicable provisions of the LCP, including that it would not interfere substantially with existing or continued agricultural operations, and (2) that legal and funding mechanisms are in place to ensure proper future operation of the system, and (3) that proposed development would either avoid or minimize and fully mitigate impacts. Use of an off-site septic system for development other than as provided by this policy, is not allowed.

(PC app. 2/13/12, 11/7/11, 4/27/09)

~~[New policy, not in Unit I or II]~~

C-PFS-13 New Water Sources Serving Five or More Parcels. Professional engineering or other studies are required for coastal permit applications for new water wells or other sources serving 5 or more parcels. These studies must demonstrate that such groundwater or stream withdrawals will not have adverse direct or cumulative impacts on coastal resources, including groundwater basins, aquifers, and streams, and shall include as necessary, long-term monitoring programs, in-stream flow studies, or hydrologic studies. Such studies shall provide the basis for establishing safe sustained yields from these sources. Wells or water sources shall be at least 100 feet from property lines, or a finding shall be made that no development constraints are placed on neighboring properties.

(PC app. 9/19/11, 7/29/10)

~~[Adapted from Unit I Public Services Policy 4, p. 48, and Unit II Public Services Policies 2.a and 2.e (3), pp. 187-189]~~

C-PFS-14 Adequacy of Water Supply Within Water System Service Areas. Ensure that new development within a water system service area is served with adequate, safe water supplies. Prohibit development of individual domestic water wells or other individual water sources to serve new development, including land divisions, on lots in areas served or within the boundaries of a public or private water system, with the following exceptions:

1. For agricultural or horticultural use if allowed by the water system operators;
2. The community or mutual water system is unable or unwilling to provide service; or,
3. Extension of physical distribution improvements to the project site is economically or physically infeasible.

The exceptions specified in 1, 2, or 3 shall not be granted because of a water shortage that is caused by periodic drought. Additionally, wells or water sources shall be at least 100 feet from property lines, or a finding shall be made that no development constraints are placed on neighboring properties.

(PC app. 9/19/11, 1/24/11)

~~[Adapted from Unit I Public Services Policy 3, p. 48, and Unit II Public Services Policy 2.a, p. 187]~~

C-PFS-15 Development of Water Sources including Wells, Streams, and Springs. Require a coastal permit for wells and borings unless otherwise exempt or categorically excluded.

(PC app. 9/19/11, 7/29/10)

~~[Adapted from Unit II Public Services Policies 2.a and 2.e(1), pp. 187-189]~~

C-PFS-16 Standards for Water Supply Wells and Other Water Sources.

1. In areas where individual water wells or other individual domestic water sources are permitted, require on-site tests that demonstrate a sustained pumping rate, or equivalent, of 1.5 gpm for each residential unit or subdivided parcel. Higher yields, storage and other facilities may be required for fire protection purposes, as recommended by the appropriate fire protection agency.

2. Require that well or water sources shall be at least 100 feet from property lines, unless a finding is made that no development constraints are placed on neighboring properties.
3. Allow a well only where a finding is made that it will not have adverse direct or cumulative impacts on coastal resources.
4. Within the Inverness Planning Area, allow no individual wells on parcels less than 2.8 acres in size, unless a specific exception is granted based on findings required by the coastal permitting chapter of the Development Code and on a demonstration to the satisfaction of the Health Officer that a well can be developed on the substandard size parcel in a completely safe and sanitary manner.
5. Within the Inverness Public Utility District (IPUD), permit no individual wells for domestic use in the same watershed, at an elevation higher than the IPUD surface water sources existing as of June 14, 1983.

(PC app. 2/13/12, 9/19/11, 7/29/10)

[Adapted from Unit I Public Services Policy 5, p. 48, Unit II Public Services Policies 2.a and 2.e(2), pp. 187-189; and Interim County Code Section 22.56.130.A]

C-PFS-17 Conservation of Water. To minimize generation of wastewater and encourage conservation of Coastal water resources, require use of water saving devices, including as prescribed by the local water provider in all new developments.

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit I Public Services Policy 10, p. 49]

C-PFS-18 Desalination Facilities. Due to the Coastal Zone's unique natural resources and recreational opportunities of nationwide significance, prohibit development of desalination facilities, consistent with the limitations of Public Resources Code Sections 30260 and 30515. This policy applies to the desalination of ocean water and is not intended to prohibit the treatment of existing surface or ground water supplies for purposes of maintaining water quality.

(PC app. 11/7/11, 1/24/11)

[Adapted from Unit II New Development and Land Use Policy 7, p. 209]

C-PFS-19 Telecommunications Facilities. Require a coastal permit, in addition to any other required permit, for all telecommunications facilities, unless exempt per Section 22.68. Require facilities to be consistent with all provisions of certified LCP unless denial would be prohibited by federal law. Ensure through siting, co-location, "stealth" design and other measures that telecommunications facilities are designed and constructed to minimize impacts on coastal views, community character, natural resources, wildlife, and public safety. To the extent feasible, such facilities shall be located outside of significant public views.

(PC app. 9/19/11, 1/24/11)

[Adapted from CWP Goal PFS-5, p. 3-208]



Transportation (TR)

Background

Transportation networks and facilities are important not only for the efficient movement of people and goods but also in establishing the character of a community. The scenic character of the Marin County Coastal Zone is based in part on the small-scale, winding nature of Highway One and other rural coastal roads. As one progresses along these roads, incredible and often dramatic views of the ocean, beaches, mountains, and baylands come into view. To preserve the visual quality of the coast, it is necessary to maintain Highway One as a two-lane scenic road and to minimize the impacts of roads on wetlands, streams, and the scenic resources of the Coastal Zone.

In order to carry out the Coastal Act priority to maximize public coastal access while still protecting these resources, it is necessary to maintain and expand alternatives to auto transportation in the Coastal Zone. Public transit, especially services oriented to recreation sites that draw heavy visitation, is an essential component in a balanced transportation network (see Map 21 – Transit Corridors). Bicycle and pedestrian facilities are not only an alternative to auto-dependent transportation but also are compatible with maintaining the rural, scenic character of the Coastal Zone (see Maps 26a and 26b – Bikeways). Bicycles and pedestrians can be accommodated with smaller facilities, and those on foot or bicycle experience more of the sights and sounds of the coastal environment around them.

Since 1997, Highway One has operated at Level of Service ‘A.’ The Level of Service (LOS) measure is used to evaluate the adequacy of a given transportation feature, typically highways, by determining the level of traffic congestion and corresponding safety of driving conditions. A rating of ‘LOS A’ is the most ideal score a highway can receive, and is generally given when there exists a steady free flow of traffic and no approach area is fully utilized by traffic. This evaluation reflects a minimal level of traffic congestion and would not justify any widening of Highway One or other coastal roads. Furthermore, the rural character in which the natural environment predominates throughout the area would be changed

irrevocably by such alterations. Therefore, road widening is not a viable option for enhancing transportation capacity in the Coastal Zone.

Section 30254 of the Coastal Act establishes that Highway One shall remain a scenic two-lane road in rural areas of the Coastal Zone. However, Section 30210 requires maximizing access to the coast. Helping to reconcile these policies, Section 30252 encourages measures such as providing non-automobile circulation and minimizing the use of coastal access roads. Also related to the preservation of existing roads is Coastal Act Section 30251, which provides for the protection of the scenic and visual qualities of coastal areas, and 30253(5), which protects special communities that are popular visitor destination points for recreational users because of their unique characteristics.



The policies and programs of the Local Coastal Program (LCP) are consistent with the Coastal Act in that they prohibit the construction of additional highway lanes and ensure that road improvements are limited and undertaken in a way that respects their scenic environment. Instead of providing for an increase in vehicular traffic, the LCP encourages reduction of congestion through alternative means, such as limiting local parking and providing shuttle service to popular destinations. This goal is furthered by policies encouraging the expansion of the bicycle and pedestrian and supporting facilities. As a condition of new development, the LCP also encourages the procurement of new trails, roadways or paths. To further maximize coastal access, LCP policies encourage the expansion of trails and bikeways on National Park Service lands. Transportation policies of the LCP also recognize and attempt to minimize the impacts of sea level rise on Highway One using the least environmentally damaging means.

Policies

C-TR-1 Roads in the Coastal Zone. Limit roads in the Coastal Zone to two lanes. Work with state and federal agencies and local communities to enhance road safety, improve pedestrian, bicycle, and transit access, and stabilize or reduce congestion through means such as limiting local parking, creating a multipurpose path from West Marin to the City-Centered Corridor, and providing shuttle service to popular destinations. Shoulder widening for bicycles, turn lanes at intersections, turnouts for slow-moving traffic or at scenic vistas, traffic calming measures, and similar improvements ~~would be~~ are permitted, provided that such improvements are consistent with the coastal resource protection policies of the LCP. However, projects will not be undertaken to increase the motorized vehicular capacity of these roads. (PC app. 2/13/12, 9/19/11, 1/24/11)

[Adapted from Unit II Public Services Policy 4.a, p. 191, and CWP Program TR 1.e, p. 3-157]

C-TR-2 Scenic Quality of Highway One. Ensure that Highway One shall remain a scenic two-lane roadway throughout Marin's Coastal Zone. Maintain the existing narrow, twisty two-lane roadway that successfully complements the rugged, open character unique to the coastal area from the southern boundary of Marin's Coastal Zone northward to the Bolinas Lagoon. Ensure that improvements shall not, either individually or cumulatively, detract from the rural scenic characteristics of the highway throughout the Coastal Zone, shall minimize encroachment into parklands to the maximum extent feasible, and shall

be limited to improvements necessary for the continued use of the highway: e.g., slope stabilization, drainage control, and minor safety improvements such as guardrail placement, signing, etc.; expansion of shoulder paving to accommodate bicycle or pedestrian traffic; creation of slow traffic and vista turn-outs, as a safety and convenience improvement; and other minor improvements necessary to adequately accommodate public transit. Avoid incursions and other adverse impacts in ESHAs and their buffers. These improvements shall limit the site alterations to the minimum amount necessary to carry out the project, and minimize environmental impacts and incorporate related compensatory visual or landform restorations where feasible.

[BOS app. 12/11/2012]

(PC app. 2/13/12, 9/19/11, 4/27/09)

~~[Adapted from Unit I Public Services Policy 13, p. 49, and Unit II Public Services Policy 4.a, p. 191]~~

Program C-TR-2.a State Route 1 Repair Guidelines Within Marin County. Coordinate with Caltrans, National Park Service and other appropriate entities in refining and implementing State Route 1 Repair Guidelines Within Marin County consistent with these policies.

C-TR-3 Impacts to Highway One from Sea Level Rise. Consult with the California Department of Transportation to protect access to the coast and to minimize impacts of sea level rise on Highway One. Identify areas that will regularly be inundated by the ocean or are at risk of periodic inundation from storm surge and sea level rise. A combination of structural and non-structural measures should be considered with a preference towards non-structural solutions, including relocating the Highway, unless the structural solutions are less environmentally damaging. *(See also Environmental Hazards Program C-EH-22.a: Research and Respond to the Impacts of Sea Level Rise on Marin County's Coastal Zone Shoreline)*

(PC app. 9/19/11, 05/26/09)

~~[New policy, not in Unit I or II]~~

C-TR-4 Expansion of Bicycle and Pedestrian Access. Expand bicycle and pedestrian facilities and access in and between neighborhoods, employment centers, shopping areas, schools, public lands, and recreational sites.

(PC app. 9/19/11, 4/26/10)

~~[Adapted from Unit II Public Services Policy 4.a, p. 191, and CWP Goal TR 2, p. 3-159]~~

C-TR-5 Bicycle and Pedestrian Network. Ensure that the Coastal Zone has adequate bicycle and pedestrian links, both internally and to other parts of the county, and that streetscape improvements and standards are safe and pedestrian and bicycle friendly. Consistent with LCP natural resource policies, avoid incursions into environmentally sensitive areas unless such incursions are dependent on the resource and the environmentally sensitive area is protected from significant disruption of habitat values. In addition, minimize impacts to active agricultural lands or operations. *(See also Policy C-PK-14 Appropriate Alignment of the California Coastal Trail).*

(PC app. 11/7/11, 4/26/10)



~~[Adapted from CWP Policy TR 2.1, p. 3-150]~~

Program C-TR-5.a Add Bicycle Lanes. Identify roads with shoulders wide enough to be designated as bicycle lanes and where feasible, stripe and sign appropriate roadway segments as bike lanes and bike routes.

(PC app. 9/19/11, 5/26/09)

~~[Adapted from CWP Policy TR 2.1, p. 3-150]~~

C-TR-6 New Bicycle and Pedestrian Facilities. Encourage, and where appropriate, require new development to provide trails or roadways and paths for use by bicycles and/or on-street bicycle and pedestrian facilities. Consider facilities that achieve the following:

1. Connect to the existing bikeway or trail system, including linkages to and between communities and recreation areas.
2. Link to federal and state park trail systems, where feasible.
3. Include trails designed to accommodate multiple use (hiking, biking, and/or equestrian) where multiple use can be provided safely for all users and where impacts to coastal resources are minimized.
4. Allow for flexible, site specific design and routing to minimize impacts on adjacent development and fragile habitat. In particular, ensure that trails located within or adjacent to Environmentally Sensitive Habitat Areas are designed to protect fish and wildlife resources.
5. Provide connections with populated areas.
6. Provide diverse recreational and aesthetic experiences.

(PC app. 9/19/11, 4/26/10)

~~[Adapted from CWP Policy TR 2.2, p. 3-159, and Malibu LCP Policy 2.45]~~

C-TR-7 New Bicycle Storage Facilities. Where appropriate, encourage the installation of bike racks, lockers, or other devices for securing bicycles in convenient locations at beach parks, parking lots, trailheads and other staging areas.

(PC app. 9/19/11, 5/26/09)

~~[New policy, not in Unit I or II]~~

C-TR-8 Expansion of the Countywide Trail System. Acquire additional trails to complete the proposed countywide trail system, providing access to or between public lands and enhancing public trail use opportunities for all user groups, including multi-use trails, as appropriate.

(PC app. 9/19/11, 4/26/10)

~~[Adapted from CWP Policy TRL 1.2 p. 2-136]~~

C-TR-9 Bikeways on National Park Service Lands. Consult with the National Park Service (NPS) regarding the feasibility of bikeways on county-maintained roads within NPS park lands.

(PC app. 9/19/11, 4/26/10)

~~[New policy, not in Unit I or II]~~

C-TR-10 Adequate and Affordable Public Transportation. Provide efficient, affordable public transportation service in and to the Coastal Zone and support expansion of alternative modes of transportation.

(PC app. 9/19/11, 4/27/09)

~~[Adapted from Unit I Public Services Policy 14, p. 49, Unit II Public Services Policy 4.c, p. 191, and CWP Goal TR-3, p. 3-162]~~

Program C-TR-10.a Encourage Additional Transit Service. Encourage programs, such as the development of new transit service routes and associated loading and turning areas, parking management and enforcement, and other programs as listed below, consistent with the goal of utilizing public transit to meet current and future increased use of coastal access and recreational areas. Develop stable funding streams for such programs, potentially including congestion or parking fees, in cooperation with appropriate county, regional, state and federal agencies.

1. Support continuation and expansion of Marin Transit's Stagecoach service to West Marin;
2. Seek installation of transit waiting shelters as appropriate;
3. Post transit schedules at transit stops; and
4. Consider utilizing the principle of "flag stops" to receive or discharge transit patrons along the transit route as a further inducement to transit patronage.

[BOS app. 2/26/2013]

(PC app. 11/7/11, 4/27/09)

~~[Adapted from Unit I Public Services Policy 14, p. 49, and Unit II Public Services Policy 4.c, p. 192]~~

C-TR-11 Reduction of Visitor Traffic Congestion in West Marin. Consult with Caltrans, local, state, and federal parkland agencies, and local communities to provide alternatives to private automobile travel to recreational areas in the Coastal Zone.

(PC app. 9/19/11, 4/27/09)

~~[Adapted from Unit I Public Services Policy 14, p. 49, Unit II Public Services Policy 4.c, p. 191, and CWP Policy TR-3.6, p. 3-163]~~

C-TR-12 Consultation with Regional, State, and Federal Agencies. Consult with nearby counties, state and federal agencies, and special districts regarding regional land use and transportation planning. Encourage transit providers to minimize service gaps by linking services, such as the West Marin Stagecoach and shuttle services provided by the National Park Service, where feasible. (See also C-PK-9 "Coordinate with Federal and State Parks Agencies" in the Parks, Recreation and Visitor-Serving Uses section)

(PC app. 9/19/11, 1/24/11)

~~[New policy, not in Unit I or II]~~



Socioeconomic

Introduction

The people of Marin County enjoy a high quality of life, due in part to the abundance of natural and cultural resources found throughout the area. Residents and visitors in the Coastal Zone have tremendous opportunity to learn about the history of the area, as well as to take advantage of the extensive variety of parks, beaches and other recreation areas. Protection and enjoyment of coastal resources and recreational opportunities are essential components in continuing and enhancing the quality of the Marin County Coastal Zone experience. The Local Coastal Program (LCP) seeks to protect resources that reflect the history of the coast, to preserve recreational opportunities for both coastal residents and visitors, and to maintain and expand opportunities for the public to access the ocean shoreline and other coastal water bodies.

The Socioeconomic section addresses the following subjects:

- ♦ Historical and Archaeological Resources (HAR)
- ♦ Parks, Recreation and Visitor-Serving Uses (PK)
- ♦ Public Coastal Access (PA)



Historical and Archaeological Resources (HAR)

Background

Coastal Marin has played a significant role in California's extensive history. Before the first arrival of Europeans in the 1500s, the local coast experienced thousands of years of Native American settlement by the Coast Miwok. The 1849 California Gold Rush brought an influx of people seeking their fortune to San Francisco. To support the rapid growth of the area, the North Pacific Coast Railway was completed in 1875, connecting Tomales to San Quentin and Sausalito, and ensuring efficient transport of lumber, dairy, and other agricultural products. During this hasty transformation of Marin County, the Coast Miwok culture collapsed and a new kind of society began to emerge. Families established new roots throughout the Coastal Zone, building homes in a variety of architectural styles including Greek Revival, Italianate, Queen Anne and Mission Revival. By the late nineteenth century, half of Marin County's population lived in or near the village of Tomales. This growth began to slow following the abandonment of the railroad in the 1930s. The rich history of Marin County serves as an important record of the past and should be preserved through the protection of local historical and archaeological resources.

Today, the Marin County coastal landscape is dotted with small rural communities, many of which are historically important and aesthetically unique (refer to Map 22 - Historic Resources to see properties in the Coastal Zone that are on the National or California Register). These communities have remained substantially intact due to their rural, isolated locations throughout the Coastal Zone and the strong historical preservation policies that protect their distinctive character. The historic architecture and village character of these communities are not only important historically, but also contribute to their attractive quality for visitors and residents alike. Improper land development activities can damage if not destroy such qualities, and should not be left unregulated.

The Coastal Act does not ~~directly~~ explicitly address protection of historical resources; however Sections 30244 and 30253(5) of the Act mandate protection of archaeological and paleontological resources as well as protection of coastal communities that draw visitors because of their special characteristics,



including in terms of the way in which historic resources contribute to an area's character. Similarly, Section 30251 protection for visual resources extends to the manner in which history affects and informs such resources. The Local Coastal Program (LCP) carries out ~~this~~ these requirements, in part, through policies that protect key historical, archaeological, and paleontological resources. These policies accommodate future development in a way that preserves the area's unique historical character.

The LCP provides for protection of key Coastal Zone resources that reflect the legacy of the past. In furtherance of this goal, LCP policies protect historic buildings and ensure that new development will be compatible with the existing character of the surrounding community (see Maps 23a through 23g). The success of these measures relies on broad public participation, as well as use of design-review groups to evaluate coastal ~~project~~-permits involving or affecting historic structures.

The LCP also protects archaeological and paleontological resources when development projects that might affect them are proposed, by requiring development applications to be reviewed for potential impacts to archaeological and paleontological resources. If potential impacts are found during the review, the LCP requires their avoidance through means such as re-siting the proposed development. When construction activity is allowed at archaeologically sensitive sites, the LCP requires that such activities be carefully monitored and any mitigation measures be properly implemented in the event that archaeological resources are discovered during construction.

Policies

C-HAR-1 Maintenance of Information on Archaeological and Paleontological Resources.

Maintain a file on known and suspected archaeological and paleontological sites in the Coastal Zone, in cooperation with the area clearinghouse, for use in carrying out Policy C-HAR-2. Additional information on such sites that becomes available through the EIR process or by other means shall be added to the file and forwarded to the Northwest Information Center (NWIC). The file shall be kept confidential in order to prevent vandalism of sites.

(PC app. 9/19/11, 11/23/09)

[Adapted from Unit I New Development and Land Use Policy 18, p. 64, and Unit II New Development and Land Use Policy 2.a, p. 206]

C-HAR-2 Potential Impacts of Development on Archaeological and Paleontological Resources.

Prior to the approval of a coastal ~~project~~-permit for any development proposed within an area of known or likely archaeological or paleontological significance, including sites identified in the file described in Policy C-HAR-1, require a field survey by a state-qualified archaeologist recommended by the Sacred Sites Protection Committee of the Federated Indians of Graton Rancheria or by a qualified paleontologist at the applicant's expense to determine the extent of archaeological or paleontological resources on the site. Where development would adversely impact identified resources, require mitigation measures, as appropriate, including avoidance and permanent protection as open space, if feasible, as recommended in the field survey.

(PC app. 11/7/11, 11/23/09)

~~[Adapted from Unit I New Development and Land Use Policy 19, p. 64, Unit II New Development and Land Use Policy 2.b, p. 206, and Countywide Plan Programs HAR 1.d and HAR 1.3]~~

C-HAR-3 Monitoring of Construction on Archaeological Sites by Appropriate Experts. As a condition of coastal ~~project~~ permit approval, require that new development on sites identified as archaeologically sensitive include on-site monitoring by a qualified archaeologist(s) and appropriate Native American consultant(s) of all grading, excavation, and site preparation that involves earth moving. Provide for implementation of mitigation measures if significant resources are discovered by on-site monitors.

(PC app. 9/19/11, 11/23/09)

~~[New policy, not in Unit I or II]~~

C-HAR-4 Structures of Special Character and Visitor Appeal. Preserve and restore structures with special character and visitor appeal in coastal communities.

(PC app. 9/19/11, 2/8/10)

~~[Adapted from Unit I New Development and Land Use Policy 15, p. 64, and Unit II New Development and Land Use Policy 1.a, p. 206]~~

C-HAR-5 Proposed Development that Affects Areas and Structures of Special Character and Visitor Appeal. Review all coastal permits for projects that (1) are located within the boundaries of those areas designated as having special character and visitor appeal, including historic areas, and (2) involve pre-1930 buildings, to ensure that such projects conform to:

1. "Design Guidelines for Construction in Areas of Special Character and Visitor Appeal and for pre-1930 Structures" and,
2. "Coastal Village Community Character Review Checklist", both located in the Appendix of the LCP.

(PC app. 9/19/11, 2/8/10)

~~[Adapted from Unit I New Development and Land Use Policy 16, p. 64, and Unit II New Development and Land Use Policy 1.b, p. 206]~~

C-HAR-6 Alterations and Additions to Structures of Special Character and Visitor Appeal.

Require a coastal permit for substantial alterations or additions to any structure built prior to 1930 that would otherwise be exempt from a coastal permit, except for (a) maintenance or repair to any pre-1930's structure consistent with its original architectural character and (b) maintenance or repair that includes replacement-in-kind of building components. Alterations or additions to any pre-1930's structure shall retain the scale and original architectural character of the structure, especially for the front facade.

(PC app. 9/19/11, 2/8/10)

~~[Adapted from Unit I New Development and Land Use Policy 15.b, p. 64, and Unit II New Development and Land Use Policy 1.a(2), p. 206]~~

C-HAR-7 Proposed Demolition of Structures of Special Character and Visitor Appeal.

Review the proposed demolition of any structure built prior to 1930 for its impacts on community character, except that demolition of any secondary or agricultural building built prior to 1930 may be exempted from this requirement upon a finding by the Planning Director or appropriate hearing body that such structure is not a significant resource. Issuance of a coastal ~~project~~ permit for the demolition of any pre-1930 structure may provide for such demolition to be delayed for a period not to exceed six months. During this period, the property owner or local historic group or society may attempt to find a purchaser or alternate location for the structure. This six month period may be waived by the Planning Director or

appropriate hearing body upon a finding that the structure is not significant to community character or to visitor appeal or cannot be rehabilitated.

(PC app. 9/19/11, 2/8/10)

[Adapted from Unit I New Development and Land Use Policy 15.c, p. 64, and Unit II New Development and Land Use Policy 1.a(3), p. 206]

C-HAR-8 Village Areas with Special Character and Visitor Appeal. Ensure that all new ~~construction~~ development conforms in siting, scale, design, materials and texture with surrounding community character within areas having special character and visitor appeal including mapped historic areas in Stinson Beach, Bolinas, Tomales, Marshall, Point Reyes Station, Olema, and Inverness.

(PC app. 9/19/11, 2/8/10)

[Adapted from Unit I New Development and Land Use Policy 15.a, p. 64, and Unit II New Development and Land Use Policy 1.a(1), p. 206]



Parks, Recreation and Visitor-Serving Uses (PK)

Background

The spectacular Marin County coast is distinguished by its windswept rolling hills, coastal bluffs, dense redwood forests, tidal flats, rural communities and cool, frequently foggy weather. The Coastal Zone is home to a myriad of protected natural communities and some of the region's most popular national, state and county parks, including Point Reyes National Seashore and the Golden Gate National Recreation Area (see Map 24 – Open Space and Parks).

Provision of recreational opportunities in the Coastal Zone is important as a means to preserve the natural landscape, as well as to enable the public to use and enjoy its many parks and recreation areas. Enjoyment of coastal resources increases public knowledge about the value of the natural environment and the need to protect it. Overnight accommodations are a key element in the provision of coastal recreational opportunities, since many coastal visitors travel long distances to reach the variety of recreation options found throughout the County. By supporting lower cost overnight facilities and public recreation, the Local Coastal Program (LCP) is helping to ensure that everyone, regardless of economic status, can take advantage of such opportunities.

Communities in the southern part of the Coastal Zone are in close proximity to the City of San Francisco, and tend to generally have higher demand for day-use opportunities and lower demand for overnight accommodations than communities farther north. As the population of the Bay Area grows, demand for local recreational opportunities rises. Availability of both private and public recreational opportunities ensures that these growing demands may be met in a variety of ways. Parks throughout the County are critical in providing access to these activities and represent a low-cost option for recreational pursuits, allowing all people an equal opportunity to participate. Commercial visitor-serving facilities provide much of the supply of overnight accommodations throughout the Coastal Zone, and generally consist of small inns and bed and breakfast facilities in villages and rural areas.

The Coastal Act places a high priority on the provision of recreation and visitor-serving facilities, especially lower cost and public facilities, including as reflected in Sections 30213, 30220, 30221, 30222, 30223, and 30224 of the Act. Section 30222 states that use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industries. Regarding development of recreational facilities within state parks, as well as those maintained by the County and special districts, the Coastal Act establishes that it is the responsibility of the County to review coastal permits for such development.



The LCP encourages provision of a wide range of recreational opportunities, while balancing recreational use with protection of natural resources and community character. The LCP addresses growing demand for coastal recreational opportunities through policies and programs that support both public recreational and commercial facilities, including overnight accommodations of low or moderate cost. Furthermore, the LCP discourages conversion of visitor-serving enterprises, particularly those that provide overnight accommodation, into time-sharing, club, condominium or similarly restricted or limited access type of occupancy. The LCP also restricts conversion of second units and affordable housing to bed and breakfast inns.

Federal park projects in the Coastal Zone are not subject to County-issued coastal permits. LCP policies regarding recreational uses within Point Reyes National Seashore and Golden Gate National Recreation Area simply provide guidance to both the National Park Service and California Coastal Commission, which typically review federal projects under what is known as the federal consistency review authority. Although federal park activities are not within the County's coastal permit authority, the County does have the responsibility to review non-federal projects that take place within the boundaries of National Park Service lands. For instance, private development that occurs on a leasehold within Point Reyes National Seashore is subject to County coastal development permit review.

Policies

C-PK-1 Opportunities for Coastal Recreation. Provide high priority for development of visitor-serving and commercial recreational facilities designed to enhance public opportunities for lower-cost coastal recreation. On land designated for visitor-serving commercial and/or recreational facilities, ensure that higher priority shall be given to such uses over private residential or general commercial development. New visitor-serving uses shall not displace existing lower-cost visitor-serving uses unless an equivalent replacement is provided.

(PC app. 9/19/11, 10/26/09)

[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy I, p. 42, and Malibu LCP Policy 2.33]

C-PK-2 Compatible Commercial Recreation Facilities. Ensure that new visitor-serving and commercial development is compatible in architectural character, scale, and function with the character of

the community in which it is located, including to preserve the integrity and special qualities of coastal villages in the Coastal Zone. Site and design visitor-serving and commercial development to minimize impacts on the environment and other uses in the area, and ~~evaluate it for~~ assure its conformance with LCP policies on natural resources, agriculture, visual quality, public access, and public services, among others.

(PC app. 9/19/11, 10/26/09)

[Adapted from Unit II Recreation and Visitor Serving Facilities Policies 1, p. 42, and 3.a, p. 43]

C-PK-3 Mixed Uses in the Coastal Village Commercial/Residential Zone. Continue to permit a mixture of residential and commercial uses in the C-VCR zoning district to maintain the established character of village commercial areas. Principal permitted use of the C-VCR zone shall include commercial ~~and residential~~ uses. ~~Require a Use Permit for~~ In the village commercial core area, residential uses shall be limited to: (a) the upper floors, and/or (b) the lower floors if not located on the road-facing side of the property. Residential uses on the ground floor of a new or existing structure of the road-facing side of the property shall only be allowed subject to a use permit where a finding can be made that the development maintains and/or enhances the established character of village commercial areas. Existing legally established residential uses in the C-VCR zone on the ground floor and road-facing side of the property can be maintained. proposed on the ground floor of a new or existing structure on the road-facing side of the property. Replacement, maintenance and repair of any legal existing residential use shall be exempt from the above provision and shall be permitted.

(PC app. 9/19/11, 7/29/10)

[Adapted from Unit I Recreation and Visitor Serving Facilities Policy 14, p. 13]

C-PK-4. Balance of Visitor-Serving and Local-Serving Facilities. Support a level of local-serving facilities such that an adequate infrastructure can be maintained to ensure the health, vitality, and survival of the visitor-serving segment of the coastal economy.

(PC app. 9/19/11, 10/26/09)

[New policy, not in Unit I or II]

C-PK-5 Small-Scale Tourist Facilities. Permit small-scale tourist-oriented businesses, rather than large tourist facilities, within coastal villages. Small-scale uses that serve visitors to major public recreation areas include campgrounds, hotels, shops, and restaurants. Ensure that the siting height, scale, intensity, and design are compatible with surrounding community character.

(PC app. 9/19/11, 7/29/10)

[Adapted from CWP Policy PA 7.8, p. 3-243]

C-PK-6 Bed and Breakfast Inns. Support bed and breakfast facilities in the Coastal Zone as a means of providing visitor accommodations, while minimizing their impacts on surrounding communities. Restrict the conversion of second units and affordable housing to bed and breakfast inns. In addition, support the location of bed and breakfast inns in areas that are easily and directly accessible from usual tourist travel routes and where there is adequate off-street parking for guests and where the problem of nearby residents being inconvenienced by noise and increased transient traffic is minimized. Bed and breakfast inns shall be permitted to host or provide facilities for gatherings, such as weddings, receptions, private parties, or retreats if located in the C-APZ, C-ARP or C-R-A and if such activities are otherwise LCP consistent. Each bed and breakfast inn must be operated by a householder who is the sole proprietor of the enterprise and whose primary residence is on the premises where the inn accommodations are located.

(PC app. 9/19/11, 1/24/11)

[Adapted from Unit I Recreation and Visitor Serving Facilities Policy 15, p. 14, and Unit II Recreation and Visitor Serving Facilities Policy 3.h, p. 52]

C-PK-7 Lower Cost Recreational Facilities. Protect and retain existing lower cost visitor and recreational facilities. Prohibit conversion of an existing lower-cost overnight facility unless replaced in kind. Prohibit conversion of an existing visitor serving facility on public land to private membership use. Ensure that new development of overnight visitor-serving accommodations (other than bed and breakfast inns), ~~or conversion to private membership use of an existing lower cost overnight facility,~~ provides a component of lower cost overnight visitor accommodations open to the public, such as a campground, RV park, hostel, or lower cost hotel. The required component of lower cost overnight accommodations should be equivalent to at least 20 percent of the number of high-cost or private membership overnight accommodations. This requirement may be met on site, off site, or by means of payment of an in lieu fee to the County for deposit into a fund to subsidize the construction of lower-cost overnight facilities in the Coastal Zone.

(PC app. 9/19/11, 11/23/09)

[Adapted from Malibu LUP Policy 2.35]

C-PK-8 Appropriate Public Recreation Opportunities. Ensure that public recreational development is undertaken in a manner which preserves the unique qualities of Marin's coast and is consistent with the protection of natural resources and agriculture. Generally, recreational uses shall be low-intensity, such as hiking, camping, and fishing, in keeping with the character of existing uses in the Coastal Zone.

(PC app. 9/19/11, 11/23/09)

[Adapted from Unit II Recreation and Visitor Serving Facilities Policy 1, p. 42]

C-PK-9 Coordination with Federal and State Parks Agencies. Encourage coordination between the County and federal and state parks agencies in planning and maintaining parks, recreation areas, and coastal accessways within the Coastal Zone. Coordinate with the National Park Service in the development of a Transportation Demand Management Program designed to reduce commute traffic generated by tenants and employees located within park facilities.

(PC app. 9/19/11, 11/23/09)

[New policy, not in Unit I or II]



C-PK-10 Appropriate Uses of Federal Parks. The following policies shall be advisory for development on federal parklands within the Coastal Zone.

1. Public access and transportation.
 - a. Provide additional coastal access trails and bike paths where feasible and consistent with protection of the park's natural resources. Non-vehicular accessways should connect to points accessible by both automobile and transit.
 - b. Give priority to frequent and convenient transit service from outside the parks to the most heavily used areas in the parks in transit planning and funding. Encourage the National Park Service to expand shuttle services within the parks.
2. Recreation and visitor-serving facilities.

- a. Give priority to development of new facilities in the most heavily used areas of the parks which are close to park interpretive, educational, and other programs and which are easily accessible by transit.
 - b. If any unused buildings within the parks, such as military structures, still exist, review their potential for overnight accommodations before they are converted to other cultural or institutional uses.
3. Natural resources.
- Encourage evaluation of federal projects which involve the modification or alteration of natural resources by the Coastal Commission through the consistency review process using the LCP as a guide.
4. Agriculture and mariculture.
- a. Encourage continuation of agricultural land uses in the Golden Gate National Recreation Area and Point Reyes National Seashore, at locations and levels compatible with protection of natural resources and public recreational use. Agricultural operations should be monitored to ensure that they are compatible with resource carrying capacity. Where ~~conflicts~~ issues arise between agriculture and resource protection or public access or recreational uses, they should be resolved to protect resources and public ~~safety~~ access while still allowing the continuation of the agricultural operation.
 - b. Encourage the National Park Service to develop uniform procedures and standards to use in dealing with all agricultural tenants, including use of long-term lease arrangements of at least ten years. Encourage review of existing agricultural leases and special use permits for compatibility with park goals five years prior to their expiration. Operators should be notified at that time whether or not their leases will be renewed and what revisions in operating arrangements, if any, are necessary. Provisions for automatic lease renewals should be supported.
5. Development/historic preservation.
- Whenever possible, utilize existing structures and existing developed areas for new or expanded development. Historic structures should be preserved, restored, and formally designated as historic resources where appropriate. Work with the National Park Service to coordinate historic preservation activities in the Coastal Zone. The majority of park development should be concentrated in the southern GGNRA due to its proximity and accessibility to urban population centers, and availability of existing facilities. New backcountry campgrounds should be developed with minimum impacts on visual and habitat resources.

(PC app. 2/13/12, 9/19/11, 2/8/10)

[Adapted from Unit II Federal Parkland Policies 1 through 6, pp. 61-62]



C-PK-II State Parks. The State Department of Parks and Recreation has numerous holdings in the Coastal Zone, several of which have not been developed. Collectively, these holdings form Tomales Bay State Park and limited portions of Mount Tamalpais State Park. The Department has prepared a general Plan for both Tomales Bay State Park, which includes most of the state park lands in Marin County's Coastal Zone, as well as Mount Tamalpais State Park.

Development within the state parks should be consistent with their adopted General Plans as described below, as long as such development is fully consistent with all applicable LCP policies.

Mount Tamalpais State Park. The development of additional recreational and visitor services on those portions of the Mount Tamalpais State park within the ~~e~~Coastal ~~z~~Zone, including hiking trails, equestrian trails, a “primitive” hostel at the Steep Ravine Cabins and improved parking and support facilities at Red Rock are ~~consistent with the LCP policies~~ recommended. Such facilities shall be similar in design, size and/or location as those proposed by the Mount Tamalpais State Park Plan as long as such facilities can be found fully consistent with applicable LCP standards. Consistent with the protection of significant resources, additional trail development to improve access to public tidelands is encouraged.

Tomales Bay State Park. The Tomales Bay State Park General Plan states that it “aims to preserve what works well now in the park and only recommends changes to park management, activities, and recreational and administrative facilities that can harmonize with the area’s sensitive values and support valuable visitor experiences of Tomales Bay and its surrounding landscape.” Support the following development at Tomales Bay State Park, so long as such development can be found fully consistent with applicable LCP standards ~~consistent with the adopted General Plan:~~

1. Focus and anchor east shore recreation at Marconi Cove and west shore recreation at Heart’s Desire area.
2. Manage the greater part of park areas for their habitat, watershed, and aesthetic values and for low-impact and low-density recreation opportunities such as trail use, nature observation, and picnicking.
3. Enhance trail connections with Point Reyes National Seashore in the Heart’s Desire and Inverness areas.
4. Improve recreational opportunities along the Highway One corridor where recent acquisitions present new opportunities.
5. Formalize small-scale camping opportunities in previously developed areas.
6. Provide watercraft and sailboard launching opportunities at Marconi Cove and provide hiking and mountain biking recreational opportunities at the proposed trail in the Millerton Uplands.
7. Use sustainable design in siting, construction, and maintenance of park facilities. Furthermore, apply the following guidelines ~~shall be applied as standards for coastal project permit review for proposed development in the park:~~

Heart’s Desire Area

1. Preserve and enhance the forest structure and age classes of the Jepson Grove/Bishop pine forest and forest growth by improving *Pinus muricata* growth.
2. Continue to manage Heart’s Desire Beach as the only “drive-up” beach access in the park.
3. Preserve and enhance the Indian Beach estuary and protect its cultural attributes including the midden site.
4. Restore the natural outlet of the estuary that was lost when the parking lot was built at Heart’s Desire Beach in the 1960s.

5. Redesign and relocate picnic facilities to better blend with the natural environment and to provide a sense of seclusion where appropriate.
6. Adapt former hike-bike campground to a group campground.
7. Develop small walk-in campground (maximum of 15 sites) above the entrance station provided, however, that accommodation may be made for vehicles to provide any necessary disability access.
8. Encourage the Point Reyes National Seashore to extend its trail system to help complete the California Coastal Trail in two locations: connect the Indian Beach Trail to Marshall Beach Trail, and connect the Johnstone Trail to the Mount Vision Road and Inverness Ridge Trail.

Inverness Area

1. Manage these parcels as natural watershed, viewshed and wildlife habitat.
2. On the North Dream Farm property, consider developing a day-use trailhead, a self-guided nature trail loop, and an extension of the nature trail which would connect with the ridgetop trails of Point Reyes National Seashore.
3. Consider acquisitions from willing sellers, land exchanges, or land-use agreements to consolidate the park's three discontinuous Inverness Area parcels and make them more usable for public hiking both on the Tomales Bay side and to connect with trails in the Point Reyes National Seashore.
4. Encourage the State Department of Parks and Recreation to consider transferring to the Inverness Public Utility District the management or ownership of the three Assessors Parcels located around the District's watershed lands.

Millerton Area

1. Preserve and protect the Tomasini Point estuary area as habitat for native plants and animals.
2. Create a Millerton Uplands trail as part of a new segment of the California Coastal Trail.
3. Consider establishment of two trailheads to support the proposed Millerton Uplands trail—a southern trailhead near Millerton Point and a northern trailhead at Tomasini Point, including, if necessary for safety, a modest-sized and sensitively located and screened parking lot and restroom facilities on the east side of the highway near the entrance to Sheep Ranch Road.
4. Encourage the State Department of Parks and Recreation to maintain existing agricultural operations on acquired lands on the east shore of Tomales Bay until such time as the lands are developed for recreational purposes.

Marconi Cove Area

1. Provide day-use picnicking and boating facilities, including boat launch ramp, at this former marina/campground site.
2. Provide environmental campsites which could accommodate, but would not be limited to, camping needs of bicyclists, boaters, and ~~future hikers~~ users of the California Coastal Trail.
3. Consider adaptation of the bathhouse (potentially historic) along Highway One to use as staff or campground host housing or for another park use.
4. Provide parking facilities, park entrance, restrooms, landscaping, interpretive signage, pathways, fencing, lighting, and campground amenities such as fire rings, tables, and food lockers.

5. Retain natural values, especially where the property is narrowest, on the south end.
6. Ensure that development and operation of recreational facilities at Marconi Cove consider potential impacts to freshwater and baywater quality, wildlife, and to existing state water bottom leases utilized for commercial shellfish aquaculture.

North Marshall Area

1. Preserve the natural resources and open space character of this property and consider future potential for low-intensity public access and use.
2. Since this property is remote from the park's other holdings and has limited recreational potential, explore the environmental and operational benefits that may be available through land exchanges, memoranda of understandings, or other arrangements with interested organizational stakeholders to achieve common goals of protecting and managing the natural resources and open space of this area.

[BOS app. 12/11/2012]

(PC app. 11/7/11, 9/19/11, 2/8/10)

[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 2.b, p. 42]

C-PK-12 Existing County Parks in the Coastal Zone. Continue to operate the eight Marin County Parks facilities in the Coastal Zone, Miller Park, Whitehouse Pool, Chicken Ranch Beach, Bolinas Park, Upton Beach, Agate Beach, and Village Green I and II, which offer boating, fishing, swimming, and recreational opportunities in key locations. If possible, supply water to Miller Park for the benefit of those who use the facility. Maintain existing roadside parking for Chicken Ranch Beach on Sir Francis Drake Boulevard, and add handicapped parking, if feasible.

(PC app. 9/19/11, 11/23/09)

[Adapted from Unit II Public Parklands Policy 2.c, p. 43]

C-PK-13 Future Acquisition of County Coastal Parks through the County Parks Master Plan. In preparing a future Countywide Parks Master Plan, identify any potential coastal parks that would be of particular value to Marin County residents, for inclusion in the LCP through an LCP amendment. A future Marin County Parks Master Plan Update may include an implementation schedule and plan, incorporating means of acquisition such as public purchase, voluntary donation, tax default sale, or others.

(PC app. 9/19/11, 11/23/09)

[New policy, not in Unit I or II]

C-PK-14 Appropriate Alignment of the California Coastal Trail. Support completion of the California Coastal Trail system through Marin County, including as shown generally on Map 25, and including through working with willing sellers or donors and other entities. To the extent that an interim inland bypass is necessary for the route from Tomales north to the County line, that route should follow Highway One, as appropriate.

Acquisition, siting, and design of the California Coastal Trail should reflect the following standards:

1. Seek needed trail segments from willing sellers at fair market value, by donation, or through the regulatory process, including pursuant to Policy C-PA-2;
2. Locate ~~the~~ trail segments along or as close to the shoreline as feasible;
3. Incorporate a "braided trail" concept, if necessary, in which there are separate routes for different non-motorized users;

4. Make the trail continuous and link it to other public trail systems;
5. Where not feasible to locate the trail along the shoreline due to natural landforms, sensitive natural resources, or agricultural operations, locate inland bypass segments as close to the shoreline as possible;
6. Consider use of an inland bypass trail, including braided trail segments where opportunities exist to create them, that assures a continuous coastal trail in the short-term, while providing for potential realignment to better locations as conditions change in the future. Seek opportunities over time to move such segments closer to the ~~coastline~~ shoreline, including where willing landowners agree;
7. Wherever possible, avoid locating ~~the trail~~ segments along roads with motorized vehicle traffic. If it is necessary to site ~~the trail~~ segments along such roads, provide for separation of the trail from traffic as much as possible.

(PC app. 11/7/11, 2/8/10)

[Adapted from Unit II Recreation and Visitor Serving Facilities Policy 4, p. 52, and Malibu LCP Policy 2.57]

Program C-PK-14.a Collaborate to Complete the California Coastal Trail.

1. Collaborate with state and federal parkland agencies, coastal communities, Caltrans, Transportation Authority of Marin, the Coastal Conservancy, the Coastal Commission, and other organizations to identify gaps in the California Coastal Trail located within Marin County;
2. Working with public agencies, non-governmental organizations, and private landowners, propose methods to complete identified gaps in the California Coastal Trail; and
3. Identify and strengthen links from the California Coastal Trail to other paths contained in the Marin County Unincorporated Bicycle and Pedestrian Master Plan.

(PC app. 9/19/11, 2/8/10)

[New program, not in Unit I or II]

C-PK-15 Commercial Fishing and Recreational Boating. Support and protect commercial fishing and recreational boating on Tomales Bay. Protect and, where feasible, upgrade facilities on the shoreline of the Bay which support such uses. Design and locate proposed recreational boating facilities, where feasible, so as not to interfere with the needs of the commercial fishing industry.

(PC app. 9/19/11, 10/26/09)

[Adapted from Unit II Commercial Fishing and Recreational Boating Policy 1, p. 122, and Coastal Act Section 30234]

C-PK-16 Standards for New Boating Facilities. Apply the following standards to the development of new boating facilities on the Tomales Bay shoreline:

1. Co-locate new marinas or boat works within or adjacent to existing facilities and where adequate public services, such as parking and sewage disposal, exist. Where co-location is not



feasible, limit new boating facilities in undeveloped areas to small scale facilities such as launching ramps. In addition, adequate waste pump-out facilities shall be provided.

2. Direct new or expanded marinas to deeper water areas with good tidal flushing in order to minimize the need for dredging and the risk of water pollution and stagnation.
3. Provide adequate berthing space for commercial fishing boats in new or expanded marinas to ensure protection of this coastal dependent industry.
4. Incorporate provisions for public access to and along the shoreline in the design of marina facilities, and minimize alteration of the natural shoreline in conformance with LCP policies on public access and wetlands protection.
5. Prohibit “live aboards” and houseboats on Tomales Bay.

(PC app. 9/19/11, 10/26/09)

~~{Adapted from Unit II Commercial Fishing and Recreational Boating Policy 2, p. 122}~~



Public Coastal Access (PA)

Background

Physical access to the ~~ocean~~ shoreline is necessary to allow residents and visitors full enjoyment of California's coast. Much of the Marin County Coastal Zone lies within federal, state, or County parks and recreation areas. Coastal parks provide numerous opportunities for public access to the coast, in addition to providing public recreation and protecting wildlife habitats, open space and cultural resources. In addition to extensive shoreline parks, limited areas of the Coastal Zone are held by non-governmental entities, such as Audubon Canyon Ranch, that also provide opportunities for public coastal access, while protecting wildlife habitat and open space.

The shoreline from Point Bonita near the Golden Gate extending north around the Point Reyes Peninsula to Point Reyes Station is largely public parkland. Within this stretch of the Coastal Zone are the small communities of Muir Beach, Stinson Beach, Bolinas, Inverness, Olema and Point Reyes Station. Within most of these communities, some private land adjoins the shoreline, but even so there are locations at which public shoreline access is available. From Point Reyes Station north along the east shore of Tomales Bay to the Sonoma County line lies a patchwork of public and private land, some of which is within the coastal communities of East Shore/Marshall, Tomales, and Dillon Beach. Within this northern reach of the Coastal Zone, shoreline access opportunities are available at only limited locations, and the dominant land use is agriculture.

The California coast and its beaches are popular destinations for both residents and visitors, and the Marin County Coastal Zone is no exception. While the statewide population of California continues to expand, so do the number of out-of-state visitors, who serve as an important contributor to the state's economic well-being. Although visitation is already high and expected to grow, the length of California's shoreline remains fixed. Providing additional sites for coastal access fulfills several purposes, including lessening the impacts of overuse of any one public coastal access site, affording visitors a variety of coastal experiences, and increasing healthy outdoor recreational opportunities.



The Coastal Act of 1976 places a high priority on the provision of opportunities for public access to and along the coast, including requiring that such opportunities be maximized. Protection of existing access opportunities and the creation of new ones are also encouraged. Each Local Coastal Program (LCP) is required to include a specific public access component, in order to assure that maximum public access to the coast is provided and that public recreation areas are available to everyone.

Coastal public accessways are generally of two types: lateral, meaning an accessway that runs parallel to the shoreline, and vertical, meaning an accessway that leads from Highway One or other public road to the shoreline. Public accessways are owned and managed in several different ways. Some are on public land and thus owned in fee by a government entity, whereas others consist of a government-held easement over private land. Still others are managed by non-governmental entities that provide coastal access opportunities for the general public.

LCP policies support protection of existing public coastal accessways. Policies are designed to protect public rights of access where acquired through use (where prescriptive rights may exist), as well as accessways that are managed as part of existing parks and recreation areas. LCP policies also address restoration of existing public coastal accessways that may become degraded through use, as well as the protection of existing coastal access where it might be affected by construction of new shoreline protective devices (e.g., seawalls).

Opportunities for creating new public coastal accessways are limited in Marin County, given that much of the ocean shoreline is already under public ownership. Nevertheless, LCP policies support the creation of new opportunities for public access to and along the shoreline. Key elements of the LCP require the provision of public access in new development projects ~~on private land~~, where warranted and where consistent with the protection of other coastal resources. Additional policies encourage acquisition of public coastal accessways through a variety of means, including public purchase and voluntary donation.

Policies

C-PA-1 Public Coastal Access. Support and encourage the enhancement of public access opportunities to and along the coast, including in conformance with Sections 30210 through 30214 of the Coastal Act.

(PC app. 9/19/11, 11/23/09)

[Adapted from Unit II Public Access Policy 1, p. 13]

C-PA-2 Public Coastal Access in New Development. Examine proposed new development between the shoreline and the first public road, whether or not it is mapped as the first public road for purposes of coastal permit appeals, for impacts on public access to the coast. Where ~~a nexus exists between impacts of proposed development and~~ the provision of public access is related in nature and extent to the impacts of the proposed development, require dedication of a lateral and/or vertical accessway, including segment(s) of the California Coastal Trail as provided by Policy C-PK-14, as a condition of development, unless Policy C-PA-3 provides an exemption. Impacts on public access include, but are not limited to, intensification of land use resulting in overuse of existing public

accessways, creation of physical obstructions or perceived deterrence to public access, and creation of conflicts between private land uses and public access.

(PC app. 11/7/11, 2/8/10)

[Adapted from Unit II Public Access Policy 1, p. 13]

C-PA-3 Exemptions to Public Coastal Access Requirements. ~~The following are Exempt from the public coastal access requirements of Policy C-PA-2—a coastal permit for only if access design measures (such as setbacks from sensitive habitats, trails, or stairways) or management measures (such as regulated hours, seasons, or types of use) cannot adequately mitigate potential adverse impacts associated with public coastal access requirements:~~

1. Improvement, replacement, demolition or reconstruction of certain existing structures, as specified in Section 30212 (b) of the Coastal Act, and
2. Any new development upon specific findings under Section 30212 (a) that (1) public access would be inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate public access exists nearby, or (3) agriculture would be adversely affected.

~~Upon specific findings that public use of an accessway would seriously interfere with the privacy of adjacent residents, public access need not be required. The findings on any point above shall include a consideration of whether or not (1) design measures such as setbacks from sensitive habitats, trails, or stairways, or (2) management measures such as regulated hours, seasons, or types of use could adequately mitigate potential adverse impacts from access.~~

[BOS app. 7/30/2013]

(PC app. 9/19/11, 2/8/10)

[Adapted from Unit II Public Access Policies 2.d, p. 15, and 5, p. 23]

C-PA-4 Direct Dedication of Public Coastal Access, if Feasible. If a coastal accessway is required as a condition of development pursuant to Policy C-PA-2, require, if feasible, direct dedication of an easement or fee title interest to the County, another public agency, or other suitable entity. If direct dedication is not feasible, require that a twenty-year irrevocable offer to dedicate the required easement(s) shall be recorded by the applicant prior to the issuance of a final County permit to commence construction. Upon recordation, immediately notify the California State Coastal Conservancy of such offers to dedicate. The County may process irrevocable offers according to the Coastal Commission's centralized coastal access program. In the event that a property owner is willing to accept responsibility for public use of a defined area of the property, and such public use can be assured in the future, a deed restriction may be required, rather than direct dedication of access or an offer to dedicate access.

(PC app. 9/19/11, 2/8/10)

[New policy, not in Unit I or II]

C-PA-5 Acceptance of Offers to Dedicate Public Coastal Accessways. Accept offers to dedicate easements or fee title interests in coastal accessways and, as resources permit, place first priority on opening such accessways when the offer to dedicate is made pursuant to evidence of prescriptive rights or where the offer to dedicate is in a developed area. The County shall accept an offer to dedicate within 9 months of recordation. If the County does not accept an easement within this time period, it shall attempt to find an appropriate public or private agency to do so. Notwithstanding the above, the County may at any time accept a valid offer to dedicate an easement that has not been accepted by another entity.

(PC app. 9/19/11, 2/8/10)

[Adapted from Unit I Public Access Policy 6, p. 8, and Unit II, Public Access Policy 2.c, p. 14]

C-PA-6 Acquisition and Location of New Public Coastal Accessways through Suitable Means.

Acquire additional public coastal accessways in order to enhance opportunities to reach public tidelands, to link publicly accessible beaches via lateral trails, and to avoid impacts of overuse of any single area. Acquisition shall be pursued through available means including, public purchase, tax default acquisitions, agreements with nonprofit management entities, voluntary donation, or, when permissible, dedication as a condition of a coastal ~~project~~ permit. When available funds or other acquisition opportunities are limited, accessways listed in the Appendix shall receive first priority. Acquisition and location of accessways shall take into account the need to protect public safety, military security, fragile coastal resources, and agriculture.

~~{BOS app. 12/11/2012}~~

~~{PC app. 9/19/11, 11/23/09}~~

~~{Adapted from Unit I Public Access Policies 9, 11, 12, and 13, pp. 8-9, and Unit II Public Access Policies 3, 4, and 5, pp. 15-22}~~

Program C-PA-6.a Review and Revise List of Recommended Public Coastal Accessways.

Review and revise as appropriate priority coastal access sites in the List of Recommended Accessways to reflect current suitability, environmental characteristics, and ownership status.

~~{PC app. 9/19/11, 2/8/10}~~

~~{New program, not in Unit I or II. The current detailed list of recommended accessways is now contained in "Appendix 5" of the LCPA.}~~

C-PA-7 Protection of Prescriptive Rights. Ensure that development does not interfere with the public's right of access to the sea where acquired through use. Where evidence (including historic public use) of prescriptive rights is found in reviewing a coastal permit application, take one or more of the following actions:

1. Consider approval of the coastal permit application, while siting development to avoid the area potentially subject to prescriptive rights and/or by requiring public easements to protect the types and intensities of historic/prescriptive use and ~~areas of historic interest~~ as a condition of project approval.
2. If requirement of an access easement to protect areas of historic/prescriptive use would preclude all reasonable private use of the project site, the County or the Coastal Commission and the Attorney General at the request of the County shall, subject to the availability of staff and funds, seek a court determination and confirmation of such public rights.
3. In the absence of a final court determination, the County may proceed to consider approval of development on areas potentially subject to prescriptive rights (except those used for lateral access), ~~provided that all impacts on~~ if alternative access is provided equivalent in time place and manner so as to assure that potential rights of public access are mitigated in the same vicinity substantially protected in accordance with the LCP's Access policies. Such mitigation may include securing an accessway on another property in the same vicinity, or providing an in-lieu fee to a public agency or private association approved by the County and Coastal Commission for acquisition, improvement, or maintenance of access in the same vicinity. Same vicinity is considered to be within 1,000 feet of the project site (parcel).

~~{PC app. 9/19/11, 2/8/10}~~

~~{Adapted from Unit I Public Access Policy 3, p. 7, Unit II Public Access Policy 2.a, p. 13, and Coastal Act Section 30211}~~

C-PA-8 Bolinas Mesa. Public use of the two access trails across Bolinas Mesa to the RCA beach and the beach area itself shall be protected and shall be limited to the level and character of the historic use of

the property (including use for beach access, hiking, swimming, and horseback riding) to protect the natural resources of Duxbury Reef. Limited signing shall be provided to identify the access trails and caution trail users of the fragile coastal resources of the area.

(PC app. 11/7/11, 11/23/09)

[Adapted from Unit I Public Access Policy 11, p. 9]

C-PA-9 Variety of Public Coastal Accessways. When requiring public coastal access, include any of the following types of accessways, either singularly or in combination:

1. Vertical accessways to the ocean or shoreline;
2. Lateral accessways along the ocean or shoreline that extend in width from the ambulatory mean high tide line landward to a defined line, such as the intersection of the sand with the toe of a revetment, vertical face of a seawall, toe of a bluff, or other feature;
3. Bluff top accessways along bluffs for public viewing or trail purposes or where no continuous sandy beach exists.

(PC app. 9/19/11, 11/23/09)

[Adapted from Unit I Public Access Policy 2, p. 7, and Unit II Public Access Policy 2.b, p. 14]

C-PA-10 Impacts of Public Coastal Accessways on their Surroundings. Site and design coastal accessways and parking and other support facilities to avoid, ~~if feasible, and only then to minimize~~ significant adverse impacts to sensitive environmental resources, agriculture, and the surrounding community. A vertical accessway should generally be ten feet in width unless site conditions warrant otherwise and should be located at least 10 feet from residential structures. Control public access to sensitive habitat areas, including timing, intensity, and location of such access, to minimize disturbance to wildlife.

(PC app. 9/19/11, 2/8/10)

[Adapted from Unit II Public Access Policy 2, p. 14, and Unit II Natural Resources Policy 5.b, p. 75]

C-PA-11 Privacy of Neighbors. In determining appropriate management measures for public coastal accessways, including hours of operation, the Marin County Parks department or other managing entity should take into account the need to respect the privacy of neighboring residents.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 11/23/09)

[Adapted from Unit I Public Access Policy 1, p. 7]

C-PA-12 Agreements for Maintenance and Liability Before Opening Public Coastal Accessways. Open dedicated coastal accessways to public use only upon agreement of a public agency or private association to accept responsibility for restoration, maintenance and liability for the accessway.

(PC app. 9/19/11, 11/23/09)

[New policy, not in Unit I or II]

C-PA-13 Needs of Persons with Disabilities. Ensure that new public coastal accessways are compliant with California Title 24 and accessible to persons with disabilities, to the maximum extent feasible.

(PC app. 9/19/11, 11/23/09)

[New policy, not in Unit I or II]

C-PA-14 Consultation with Appropriate Land Management Agencies. Refer new development proposals adjacent to existing public coastal accessways to appropriate federal, state, county, and other managing entities for review and comment.

(PC app. 9/19/11, 11/23/09)

[New policy, not in Unit I or II]

C-PA-15 Impacts of New Development on Public Use of Coastal Accessways. Site and design new development so as to avoid, if feasible, and, if unavoidable, or to minimize impacts to users of public coastal access and recreation areas. Measures to mitigate impacts to users of public coastal access and recreation areas shall be implemented prior to or concurrent with construction of the approved development.

(PC app. 9/19/11, 11/23/09)

[New policy, not in Unit I or II]

C-PA-16 Protection of Existing Public Coastal Accessways. Recognize existing public coastal accessways, both public and private, as an integral part of the County's overall access program. Maintain existing public accessways. Consider closure of existing County-managed accessways only if authorized by a coastal permit and only after the County has offered the accessway to another public or private entity.

(PC app. 9/19/11, 11/23/09)

[Adapted from Unit II Public Access Policy I, p. 13]

C-PA-17 Restoration of Public Coastal Access Areas, Where Necessary. The Marin County Parks department should restore areas under its control that become degraded through public access use, including by such means as revegetation, trail improvements, installation of boardwalks, and informational signing, as funds and staffing or volunteer support permit.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 11/23/09)

[New policy, not in Unit I or II]

C-PA-18 Parking and Support Facilities at Public Coastal Accessways. Where appropriate and feasible, provide parking areas for automobiles and bicycles and appropriate support facilities in conjunction with public coastal accessways. The location and design of new parking and support facilities shall minimize adverse impacts on any adjacent residential areas. The need for parking shall be determined based on existing parking and public transit opportunities in the area, ~~balanced with~~ taking into account resource protection policies. Consider opportunities for reducing or eliminating parking capacities if transit service becomes available or increases.

(PC app. 9/19/11, 2/8/10)

[Adapted from Unit I Public Access Policies 5 and 9, pp. 7-8, and Unit II Public Access Policy 2.c, p. 14]

C-PA-19 Explanatory Signs at Public Coastal Accessways. Sign existing and new public coastal accessways, trails, and parking facilities where necessary, and use signs to minimize conflicts between public and private land uses. Where appropriate, ~~S~~signs posted along the shoreline shall indicate ~~appropriate~~ restrictions, such as that no fires or overnight camping are permitted, and that the privacy of homeowners shall be respected. Where public access trails are located adjacent to agricultural lands, signs shall indicate appropriate restrictions against trespassing, fires, camping, and hunting. Where only limited public access or use of an area can be permitted to protect resource areas from overuse, such signing should identify the appropriate type and levels of use consistent with resource protection. The County and CALTRANS shall, as resources permit, post informational signs at appropriate intersections and turning

points along visitor routes, in order to direct coastal visitors to public recreation and nature study areas in the Coastal Zone.

(PC app. 9/19/11, 11/23/09)

[Adapted from Unit I Public Access Policies 7 and 8, p. 8, and Unit II Public Access Policy 2.c, p. 14]

C-PA-20 Effects of Parking Restrictions on Public Coastal Access Opportunities. When considering a coastal permit for any development application that could ~~result in reducing~~ public parking opportunities near beach access points or parklands, including any changes in parking timing and availability, and any signage reducing public access, evaluate options that consider both the needs of the public to gain access to the coast and the need to protect public safety and fragile coastal resources, including finding alternatives to reductions in public parking and ways to mitigate any potential loss of public coastal access.

[BOS app. 7/30/2013]

(PC app. 9/19/11, 4/26/10)

[New policy, not in Unit I or II]

C-PA-21 Shoreline Structures on or Near Public Coastal Accessways. Ensure that construction of shoreline protection measures otherwise permitted by LCP policies maintains the same or similar shoreline access as previously existed.

(PC app. 9/19/11, 11/23/09)

[Adapted from Unit I Public Access Policy 4, p. 7]

C-PA-22 Protection Against Encroachments on Public Coastal Accessways and Offers to Dedicate Easements. Seek assistance from the Coastal Commission or other entities as appropriate in order to enforce the terms of public access easements and/or offers to dedicate easements that have been blocked by private development.

(PC app. 9/19/11, 2/8/10)

[New policy, not in Unit I or II]

COUNTY OF MARIN

Legend

NAPA



County Boundary

SOLANO

SONOMA

MARIN

SAN PABLO BAY

DRAKES BAY

PACIFIC OCEAN

BOLINAS BAY

SAN FRANCISCO BAY

CONTRA COSTA

SAN FRANCISCO

ALAMEDA

State of California



SAN MATEO

SANTA CLARA

0 2.5 5 10 15 20 Miles

THIS MAP WAS DEVELOPED FOR PLANNING PURPOSES.
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DATA ARE NOT SURVEY ACCURATE.

Date: December 17, 2010 File: Map 1_County of Marin.mxd



Exhibit 4 (Location Maps)

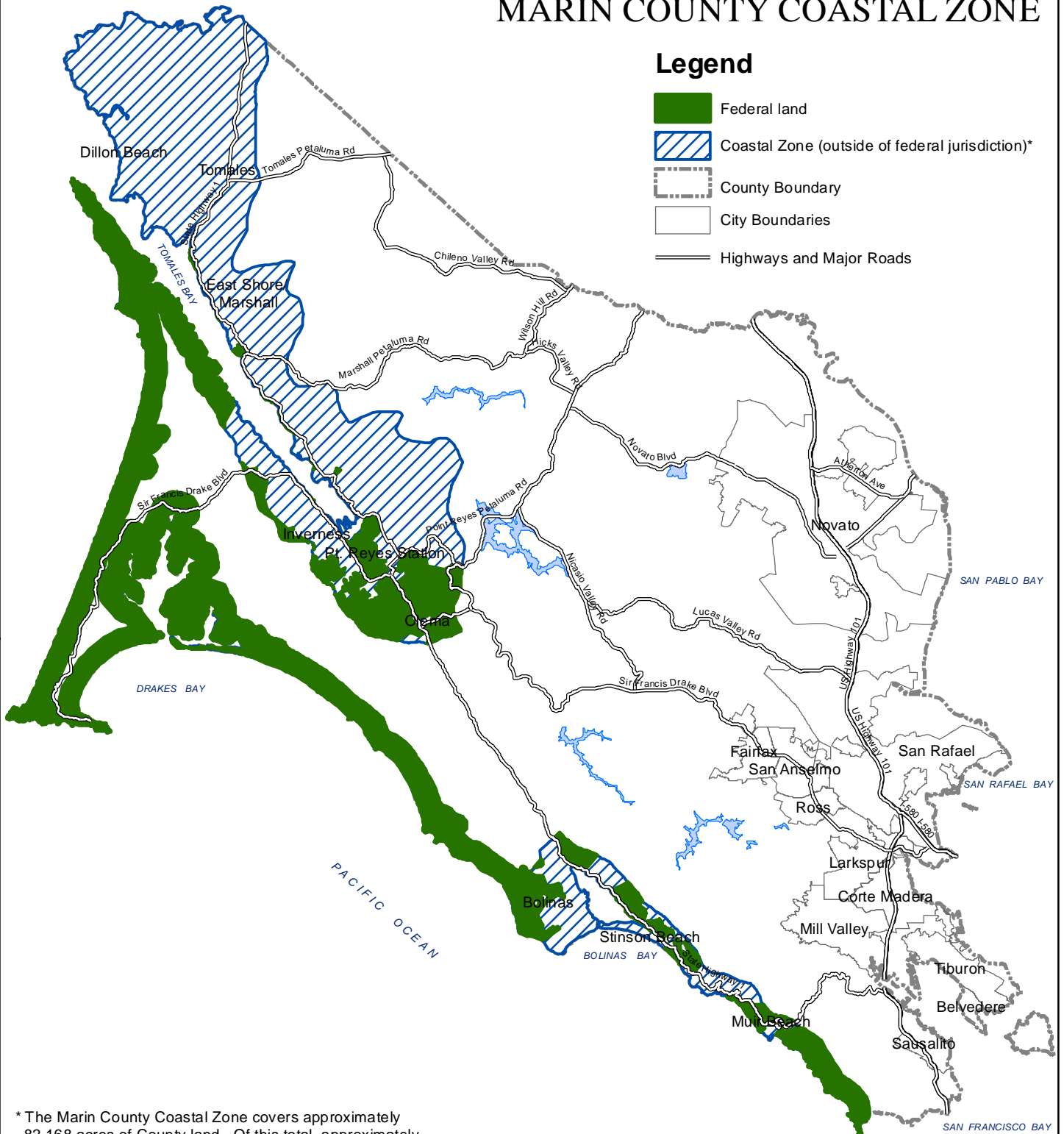
LCP-2-MAR-13-0224-1 Part B (Marin IP Update)

Page 1 of 4

MARIN COUNTY COASTAL ZONE

Legend

- Federal land
- Coastal Zone (outside of federal jurisdiction)*
- County Boundary
- City Boundaries
- Highways and Major Roads



* The Marin County Coastal Zone covers approximately 82,168 acres of County land. Of this total, approximately 33,913 acres are owned and managed by the federal government (National Park Service). This leaves 48,255 acres of the Coastal Zone under County jurisdiction.

0 1.25 2.5 5 7.5 10 Miles

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
Date: March 27, 2012 File: Map 2_Marin County Coastal Zone_revised 3.27.12.mxd

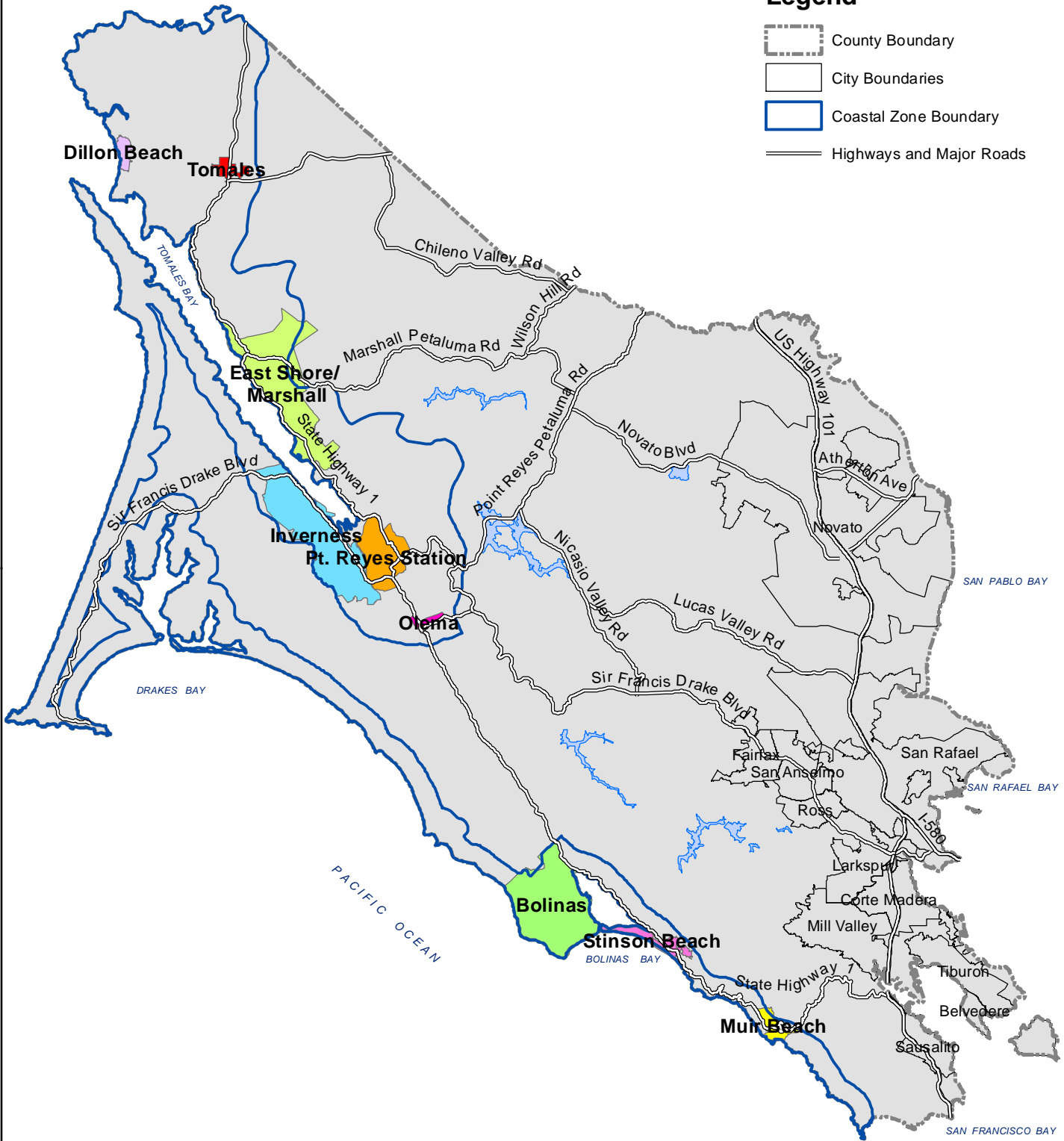
SOURCE: Marin County Community Development Agency



COMMUNITY AREAS

Legend

-  County Boundary
-  City Boundaries
-  Coastal Zone Boundary
-  Highways and Major Roads



0 1.25 2.5 5 7.5 10 Miles

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Date: January 31, 2011 File: Map 16_Community Areas.mxd

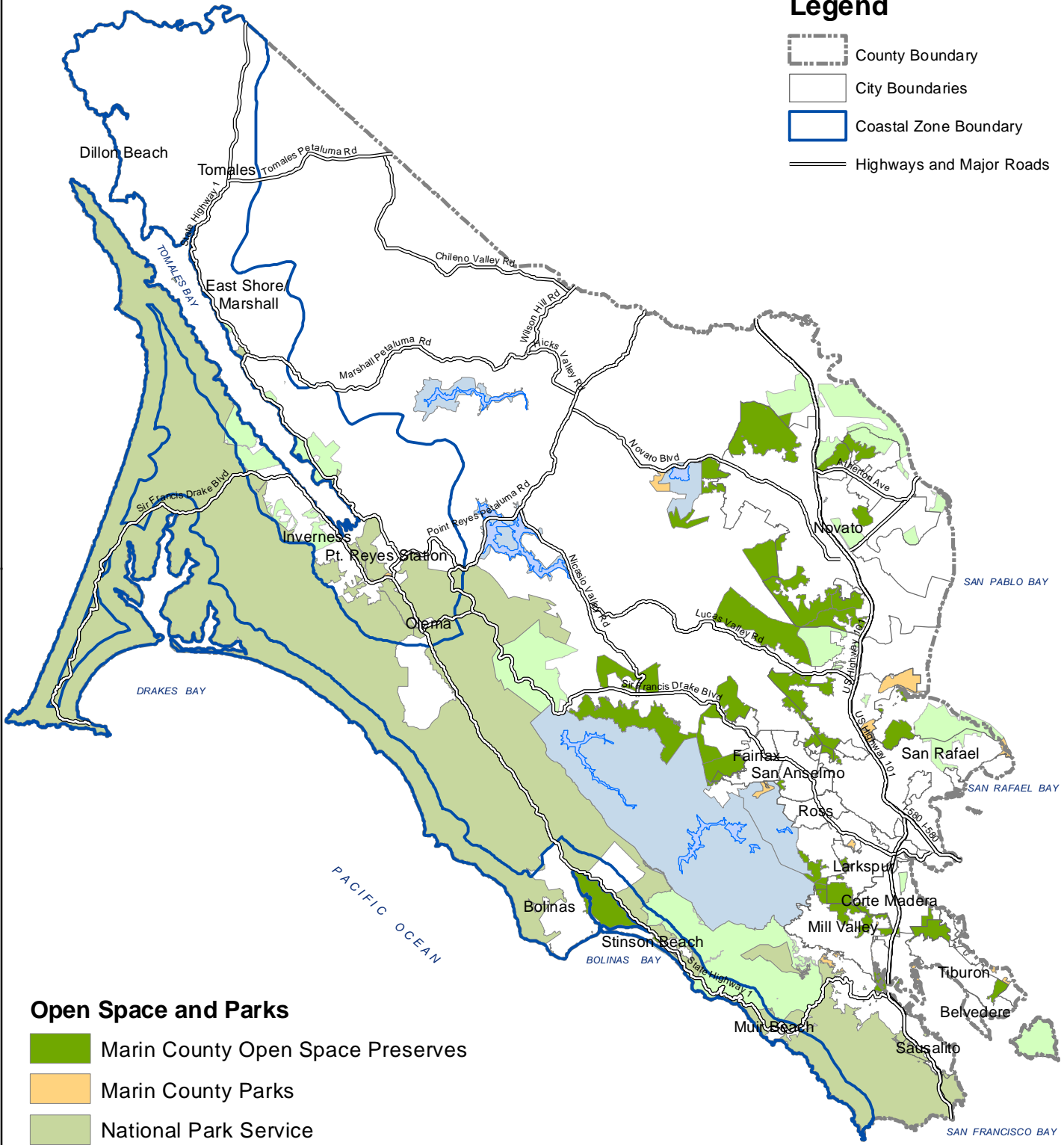


SOURCE: Marin County Community Development Agency

OPEN SPACE AND PARKS

Legend

-  County Boundary
-  City Boundaries
-  Coastal Zone Boundary
-  Highways and Major Roads



Open Space and Parks

-  Marin County Open Space Preserves
-  Marin County Parks
-  National Park Service
-  Other Parks and Public Lands
-  Watersheds

SOURCE: Marin County Community Development Agency

0 1.25 2.5 5 7.5 10 Miles

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Date: January 3, 2012 File: Map 24_Open Space_Parks.mxd

From: [Judy Teichman](#)
To: Kahn_Kevin@Coastal
Cc: [Sally Gale](#); [Amy Trainer](#)
Subject: Marin Conservation League - Agricultural Land Use Committee Meeting January 30
Date: Friday, January 16, 2015 12:30:49 PM

Kevin,

On behalf of the Marin Conservation League's Agricultural Land Use Committee, I'd like to invite you to participate in our next quarterly meeting, which is on Friday, January 30, from 9 – 11 a.m. in Point Reyes Station. We believe it would be helpful to hear directly from the Coastal Commission staff regarding both revisions to the Marin County LCP Update policies and proposed revisions to the Development Code.

If you are able to attend the meeting in person, an MCL board member has offered the use of her guesthouse in Corte Madera for Thursday night. If you are not able to attend in person, but via speakerphone, we'll see if we can find a way electronically to bring you into the room. Our Committee meetings are open to the public. We usually have around 25 people in attendance, including MCL and other members of the environmental community, ranchers, farm advisors and representatives of various agricultural support organizations.

Marin County planner Jack Liebster did a presentation on the Local Coastal Plan and planning process at the last meeting, on October 24. The Coastal Commission staff proposed edits were not yet available to the public so the discussion was limited to the planning process and the Coastal Commission's revisions to the County's policies.

We appreciate your offer via Amy Trainer, Executive Director of the Environmental Action Committee of West Marin, to participate in the "Work Session" scheduled for next Friday. As Amy likely explained, the purpose of these Work Sessions is to bring members of the agricultural and environmental communities together to exchange information and see if we can come to agreement on the issues raised by the Coastal Commission staff proposed edits to Marin's draft LCP Update. We hope to come to agreement on what the issues are at the session next Friday so we can give you a heads-up on concerns and questions before the January 30 meeting.

Best regards,

Judy Teichman, Co-Chair, MCL Agricultural Land Use Committee

From: [Judy Teichman](#)
To: [Kahn, Kevin@Coastal](mailto:Kahn.Kevin@Coastal)
Cc: [Cave, Nancy@Coastal](mailto:Cave.Nancy@Coastal); [Gordon Bennett](#); [George Clyde](#); [Nona Dennis](#); [Sam Dolcini](#); mgale@chilenobeef.com; [michael greenberg](#); [Jana Haehl](#); [Robert Johnston](#); [Samantha Kimmey](#); [David Lewis](#); [Liebster, Jack](#); [PETER MARTINELLI](#); [Bridger Mitchell](#); [Kate Powers](#); pamreaves@sbcglobal.net; [Susan Stompe](#); [Jeff Stump](#); [Ann Thomas](#); [Amy Trainer](#); [Jamison Watts](#); [Donna Yamagata](#); [Albert Straus](#); [Kevin Lunny](#); [Grossi Dominic](#); [Grossi Ralph](#); [Wade Holland](#); [Liza Crosse](#)
Subject: Marin Conservation League - Ag Land Use Committee - Proposed Edits to Marin LCP Update - January 30 Meeting
Date: Monday, February 23, 2015 4:54:58 PM

Kevin,

This is a belated but genuine "thank you" and "thank Nancy" for participating in the MCL Ag Land Use Committee meeting on Jan. 30. Having you available, even "virtually," to discuss the LCP issues the environmental and agricultural communities discussed in work sessions leading up to that meeting confirmed that our time and energy was well invested.

Hopefully you are finding the exchanges valuable as you work further on the LCP-IP. We'll be happy to organize an additional "work session" before the Coastal Commission's April 15-17 meeting if that would be helpful. In the meantime, here's a dropbox link to a video of the meeting:
www.dropbox.com/s/ydjrgy30bi9qcji/MCL%20Ag%20Land%20Use%20Jan%2030%202015.MP4?dl=0.

Best regards,

Judy Teichman

March 24, 2015

Nancy Cave
District Manager, North Central Coast
California Coastal Commission
45 Fremont St #2000, San Francisco, CA 94105



Re: Suggested Revisions to Coastal Commission Staff Draft Edits of Marin's Proposed LCP Update

Dear Ms. Cave,

We appreciate your invitation for suggestions for revisions to the proposed Coastal Commission draft staff edits of Marin LCP Update. The suggestions that follow are based in part on the draft Jack Liebster circulated for discussion on March 8 and items discussed both in the November and January "work sessions" and the discussion during the January 30 conference call in which Coastal Commission staff participated, which were organized by our Agricultural Land Use Committee.

(1) Distinguish Between Development and Agriculture, Section 22.68.030:

We recommend distinguishing between "development," as that term is used generally in the Coastal Act, and activities relating to agriculture. Please consider stating where appropriate that "agricultural activities are not development for purposes of the [Coastal Act][Marin LCP Update]" e.g.: Section 22.68.030 A-3 - be revised to read as follows: "Ongoing agricultural activities and the harvesting of major vegetation for agricultural purposes *is do not constitute development*, and therefore does not require a permit . . ."

(2) Agricultural Activities Ongoing, Section 22.68.030:

We suggest that the title in Jack Liebster's draft revision of Section 22.68.030 be revised as follows:

(a) "Coastal Permit Required ~~ment for Development~~; and that

(b) With regard to the requirement of a permit for installation or extension of irrigation systems, dairyman Albert Straus points out:

. . . this requirement . . . is unrealistic and would represent a huge change from existing requirements. . . All dairies are required by Regional Water Quality Control Board to irrigate and spread the manure, solids and liquids, to the pastures. We are always trying to improve pastures and crops to extend and enhance the forages. . .

Given that long-term drought conditions are predicted, and the desire not to have land never used for row crops converted to row crop production, we suggest instead limiting the permit requirement to the: "installation or extension of irrigation systems on more than one acre of land for the purpose of irrigating *new row crops*." [Emphasis added.]

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

(c) In all other respects, we support Jack's revision of A-3. These comments are equally applicable to Jack's definition of "Agricultural Activities Ongoing" in the Definitions, Chapter 22.130.

(3) Definitions: "Agricultural Activities, Ongoing (Coastal)," Chapter 22.130.

(a) We aren't sufficiently familiar with the LCP to have an opinion on inclusion of "exempt development" in this definition of "agricultural activities."

(b) We offer this definition of "terracing" for purposes of the IP:

Terracing. For agricultural purposes, 'terracing' means making or forming sloping land into a number of level flat areas resembling a series of steps.

(4) Grading, definition, Chapter 22.130:

Generally we're fine with Jack's definition of "Grading," but we recognize that some reviewers may find a 150 cubic yard limit excessive. If you believe it excessive, we would support substituting "minor agricultural grading" for the 150 cubic yard limit and define it as suggested by Wade Holland:

Minor agricultural grading – Grading for purposes of maintaining ongoing agricultural operations that is not part of development otherwise requiring a Coastal development permit, that does not involve more than 2 acres of land for cut and/or fill, that does not exceed 150 cubic yards of material, that is not on a slope greater than __%, and that is not in an area designated as an ESHA.

The use of "minor agricultural grading" would eliminate the problem with one-size fits all limit given the great variation in acreages and operations affected and the need to maintain ranch roads and heavily used livestock areas.

(5) Strike "Necessary for the" in Sections describing "Agricultural Uses:"

The use of "necessary for" in several sections describing what we would call "agricultural uses" muddles their role in contributing to the financial viability of agriculture in Marin:

Section 22.32.021 Accessory Activities (Coastal)
Section 22.32.022 Accessory Structures (Coastal)
Section 22.32.023 Agricultural Homestays (Coastal)
Section 22.32.024 Intergenerational Homes (Coastal)
Section 22.32.025 Farmhouse (Coastal)
Section 22.32.026 Agricultural Processing Uses (Coastal)
Section 22.32.027 Agricultural Retail Sales (Coastal)
Section 22.32.028 Agricultural Worker Housing (Coastal)
Section 22.32.062 Educational Tours (Coastal)

As an example, we suggest revising Section 22.32.021 to read, in pertinent part:

(Coastal) In the C-APZ, C-ARP and C-OA zones agricultural accessory activities shall be accessory and incidental to, in support of, *and* compatible with ~~and necessary for~~ agricultural production. . .

(6) Foodshed for Processing or in On-Site Retail Sales, Chapter 22.130:

(a) We offer this definition to be added to Chapter 22.130:

“Foodshed” refers to Marin and Sonoma Counties.

(b) In the interest of encouraging farm/ranch operators to work with others in the foodshed in developing products unique to the area and minimizing the number of processing and on-site retail operations in the county, we recommend revising the standards for “Agricultural Processing Uses” and Agricultural Retail Sales to include the “foodshed” as a source of goods used both in processing and on-site retail sales. As an example, we suggest revising the definition of “Agricultural Processing Uses (Coastal),” Section 22.32.026, to read, in pertinent part, as follows:

. . . Agricultural processing . . . is allowed as a Principal Permitted Use . . . provided it meets all of the standards set forth in Section 22.65.040, including the following standards . . . (2) with the exception of incidental additives or ingredients, agricultural products to be processed ~~are produced on the same site in the foodshed or on other agricultural properties located in Marin County that are owned or leased by the processing facility owner or operator~~ . . .

The same changes would be appropriate in Section 22.32.027, “Agricultural Retail Sales Facilities (Coastal).”

(7) Ranchers Should Be Able to Charge for Giving Educational Tours: Section 32.062 B 1.

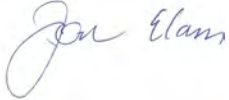
Section 32.062 B 1 includes “non-profit educational tours” as a principal permitted use. A permit would be required for ranchers to charge for tours for school and other groups. The time spent giving tours is time away from managing the agricultural operation, and there may be additional insurance or even maintenance costs, depending on the nature and size of groups. Educating the public about agriculture is important, and ranchers and ranch operators who take the time to do give ranch tours should be able to charge for them. The concern with traffic and the number of buses on the highways is more directly and appropriately dealt with by regulating tour operators, whether for-profit or nonprofit.

(8) Intergenerational Housing Limits Applicable Only to Legal Lot/Parcels, Section 22.32.024:

We urge revision of Section 22.32.024 Intergenerational Homes (Coastal) to make it clear that the conditions and limitations applicable to land on which intergenerational homes are built apply solely to that individual “legal lot” on which the homes are built. To make the conditions and limitation applicable to all contiguous legal lots that may make up a farm or ranch is tantamount to a forced merger of the legal lots. As a rancher explained in our work sessions, to avoid losing the economic value of adjacent legal lots, a rancher would simply sell off the adjacent legal lots or put the title in a different name before building an intergenerational home. Either way, the result

would be the opposite of what is intended, that is, it would lead to the break up of farms and ranches. See Section 22.32.024 F3.

Best regards,

A handwritten signature in blue ink, appearing to read "Jon Elam". The signature is fluid and cursive, with the first name "Jon" being more prominent than the last name "Elam".

Jon Elam, President



August 9, 2014

Kevin Kahn
California Coastal Commission
Via email: Kevin.kahn@coastal.ca.gov

Dear Kevin,

Thank you for the opportunity to submit suggested language for Marin County's LCP Implementation Plan. The Environmental Action Committee of West Marin offers the following proposed language changes to the existing draft of the Implementation Plan (IP) based on the Commission's approval of the Land Use Plan in May.

Proposed new language additions are highlighted in **yellow and underlined**; deletions are **struck through**.

1. Provide for appeal of all non-agricultural production development in C-APZ district.

EAC believes that any new proposed residential dwelling development in the coastal zone, regardless of zoning district, should always be subject to a public hearing, coastal development permit, and the right to appeal the permit to the Commission. Rather than deviate from the Commission's own guidance document for LCP updates, the IP must distinguish between the "Principal Permitted Use" in a zoning district that is not subject to appeal, and the other "Principally Permitted Uses" that are subject to appeal.

In the C-APZ district, the IP must define the Principal Permitted Use for purposes of appeal to be agricultural *production* as defined in 22.130 "Agricultural Production" (land use)(coastal). This will ensure consistency with previous CCC holdings and with CCC guidance on LCP IP updates as well as Marin's Countywide Plan. It will also ensure that, consistent with the intent of Section 30006, a coastal development permit application for a residential dwelling, agricultural worker housing, retail sales facilities, or agricultural product processing will receive a public hearing. Coastal Act 30006 establishes the public's right to the widest opportunity to participate in planning and development decisions.

The Commission's guidance for updating LCP IPs distinguishes between the *principal* permitted use (not appealable to the CCC), and *principally* permitted uses (not requiring

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a conditional use permit, but appealable to the CCC). “For counties, update the IP to show only one principal permitted use in each zoning district.” “Examples of *principally* permitted uses (appealable to the CCC) are farm dwellings and farm labor quarters”.¹ CCC staff has previously held that residential development is not the PPU for purposes of appeal in LCPs in an agricultural production district in Marin^{2,3} and in a timberland production district in Mendocino⁴. The Commission and its staff have consistently taken the position that *residential* development in *agricultural* or *timberland* zoning districts is not the principal permitted use (PPU) for that zoning district and thus approval of a CDP for that use is appealable to the Commission.

Marin’s proposed LCPA IP would allow a 7,000 sf (plus 540 sf garage and 500 sf office) residential development on C-APZ with *no public hearing* (22.62060E.1(c,d)). Further, the Commission’s May staff report suggests that C-APZ housing could be constructed with a *de minimis* waiver and thus *no CDP* whatsoever!⁵ This proposed rollback of coastal protection must not be allowed to become policy.

Finally, EAC is concerned that if a proposed development is a Principal Permitted Use, and it proposes a significant change in the intensity of use of land the permit approval should be appealable to the Commission for review. For example, if a rancher proposes to grow 10 acres of wine grapes instead of grazing that land both uses are technically Principal Permitted Uses in the C-APZ zone. It’s hard to imagine that the amount of grading and change to the landscape to grow even 10 acres of grapes would not create a significant change in the intensity of the use of the land. Accordingly, EAC suggests that such a use change should clearly be appealable to the Commission.

Implementation Plan Language Proposal

To achieve this end, the draft IP should be changed as follows:

CHAPTER 22.62 Coastal Zoning Districts and Allowable Land Uses

Tables 5-1, 5-2 and 5-3: revise tables for C-APZ to show that the Principal Permitted Use (PP) is only agricultural production as defined in 22.130.

¹ CCC: *LCP Update Guide: Examples and Citations for Some Recommendations and Suggestions*, Part II. Updating LCP Implementation Plan (IP) Procedures, Last updated: January 6, 2011, with examples from Del Norte LCP Amendment: <http://documents.coastal.ca.gov/reports/2009/10/W17b-10-2009-a2.pdf>

² Hansen-Brubaker, Th-9a, Appeal No. A-2-MAR-02-024, page 6.

³ Brader-Magee, W10a, 9/2/10, Appeal No. A-2-MAR-10-022, page 2.

⁴ Mendocino County LCP Amendment No. MEN-MAJ-1-08,Th6a, 4/28/11.

⁵ CCC staff report, Marin LCP, May 2014, p. 5.: “Where appropriate, the processing of agricultural development that has not been categorically excluded pursuant to a Commission-approved Exclusion Order (**such as intergenerational homes** because it was not an allowed use when the Orders were adopted) is also **eligible for streamlining** in the certified LCP. Several of these streamlining measures will be considered by the Commission when it reviews the procedures proposed by the County in its implementation plan amendment. **These streamlined procedures include de minimis waivers of CDP requirements for non-appealable development (proposed IP Section 22.68.070)** and public hearing waivers for appealable development (proposed IP Section 22.70.030(B)(5)) (emphasis added).

CHAPTER 22.70 – COASTAL PERMIT ADMINISTRATION

22.70.080 – Appeal of Coastal Permit Decision

B. Appeals to the Coastal Commission

1. Appealable Development. For purposes of appeal to the Coastal Commission, appealable development includes the following:

- (a) ...
- (b) ...

(c) Development approved that is not designated as the Principal Permitted Use (PP) by Tables 5-1, 5-2, or 5-3 in Chapter 22.62 – Coastal Zoning Districts and Allowable Land Uses; **and**

(d) ...

(e) In the C-APZ district, development that is not included in the uses “Agricultural Production (land use) (coastal)” as defined in 22.130; and

(f) Any development that represents a significant change in the intensity in the use of the land.

2. Tighten exceptions for encroachment into ESHA buffers.

As approved by the Commission in May, Marin's new Land Use Plan presents significant opportunities for development to encroach into important wetland and riparian area buffers. The Commission LCP guidance document⁶ cites peer-reviewed research that non-forested wetlands may need a 300-foot buffer and that riparian buffers 100-200 feet in width are needed to protect water quality. Marin's certified LCP from 1981 had a very stringent 100-foot buffer requirement with hardly any exceptions allowed to reduce the buffer width.

Tomales Bay continues to be subject to a TMDL under the Clean Water Act for high nutrients, sediments, and bacteria. EAC repeatedly submitted the Tomales Bay Watershed Council's reports to the County to advocate for greater buffer protections.⁷ It seems that we should be requiring greater buffer distances in the Amended LCP, not weakening what are ultimately water quality protections for the impaired Bay.

We are not aware of any environmental analysis has been performed, either by the County or by the Commission staff, regarding the potential individual and cumulative impacts of this significant policy change. The long-time environmental advocates in Marin have testified to the County and Commission repeatedly that the 50-foot buffer exception, as written, will become the rule and not the exception. Please heed this warning. It seems appropriate that the Commission staff would require more restrictive IP language in order to limit the circumstances under which an exception would be granted to the important buffer requirement.

Implementation Plan Language Proposal

To achieve this end, the draft IP should be changed as follows:

If an exception to the standard 100-foot buffer is allowed, it a) can only be for the Principal Permitted Use in that zoning district, and b) there must be clear and convincing evidence presented that:

- 1) the proposed exception is for rare and exceptional circumstances, or
- 2) is for a necessary public purpose, or
- 3) is to avoid a taking of private property.

Proposed exceptions should be evaluated taking into account all contiguous lots under common ownership, and a public hearing should be required for any proposed buffer adjustment.

⁶ http://www.coastal.ca.gov/lcp/LUPUpdate/LCPGuidePartI_Full_July2013.pdf at pg. 39

⁷ http://www.tomalesbaywatershed.org/assets/2011_12_tbw_c_finalwqreport_complete_finalv4_sm.pdf

3. Provide for Design Review in C-APZ District.

Structures and physical improvements in all coastal planned districts, except C-APZ, are subject to Design Review. (22.130, 22.42.020). Residences and accessory structures should be subject to review in all coastal planned districts – there should be no exception for the C-APZ district, particularly since it comprises almost two-thirds of Marin’s coastal zone. This would ensure that the site planning and design standards are applied uniformly throughout the Marin coastal zone.

Chapter 22.65 – Coastal Zone Planned District Development Standards 22.65.010 – Purpose of Chapter

- A.** This chapter provides detailed site planning, development, and land use standards for the planned zoning districts within the Coastal Zone. These districts include C-APZ, C-ARP, C-RSP, C-RSPS, C-RMP, C-CP, C-RMPC, and C-RCR.
- B.** These standards are intended to ensure that proposed development is designed and constructed in a manner compatible with, and sensitive to, the important environmental characteristics and visual features of lands designated within coastal planned zoning districts.

Implementation Plan Language Proposal

To achieve this end, the draft IP should be changed as follows:

Chapter 22.42 Design Review 22.42.020 Applicability

Planned Zoning Districts (combining coastal zones included). Residences, non-residential structures, accessory structures, agricultural structures, and other physical improvements in **C-APZ**, ARP, RSP, RMP, RX, CP, OP, RCR, RMPC, RF, and IP zoning districts.

4. Conserve agricultural land use when a C-APZ lot is sold or divided.

Sale or subdivision of a lot that is part of a multi-lot farm should maintain agricultural use and not result in additional dwelling units. If a farm is proposed to be carved up, which then allows a host of new housing development rights, the Commission should require an affirmative agricultural conservation easement as part of the subdivision to ensure adherence to Coastal Act sections 30241, 30242, and 30250(a).

Implementation Plan Language Proposal

To achieve this end, the draft IP should be changed as follows:

22.65.040 – C-APZ Zoning District Standards

C. Development standards.

2. Standards for Non-Agricultural Uses

a. Conservation easements. Consistent with state and federal laws, the approval of non-agricultural uses, a subdivision, **sale of a legal lot**, or construction of **two-one** or more dwelling units, excluding agricultural worker housing **and intergenerational housing**, shall include measures for the long-term preservation of lands proposed or required to remain undeveloped. Preservation shall be accomplished by permanent conservation easements, **affirmative agricultural easements**, or other encumbrances acceptable to the County. Only agricultural uses shall be allowed under these encumbrances. In addition, the County shall require the execution of a covenant prohibiting further subdivision of parcels created in compliance with this Section and Article VI (Subdivisions), so that each is retained as a single unit.

b. Agricultural Production and Stewardship Plans. The creation of a homeowners' association or other organization and/or the submission of an Agricultural Production and Stewardship Plan (APSP) may be required to provide for the proper use and management of agricultural lands, and their availability for lease, and/or for the maintenance of community roads or mutual water systems. The Director may waive the requirement for an APSP for a project involving an existing commercial agricultural production operation or an existing commercial agricultural property.

(2) The requirement for an Agricultural Production and Stewardship Plan shall not apply to agricultural worker housing or to intergenerational homes **and may be waived for residences and residential accessory buildings or structures to be occupied or used by the property owner(s) or lessee who is directly engaged in the production on the property of agricultural commodities for commercial purposes**. It may **also** be waived for non-agricultural **production** land uses when

the County finds that the proposal will enhance current or future agricultural use of the property and will not convert the property to primarily residential or other non-agricultural use, as evidenced by such factors as bona fide commercial agricultural production on the property, the applicant's history and experience in production agriculture, and the fact that agricultural infrastructure (such as fencing, processing facilities, marketing mechanisms, agricultural worker housing, or agricultural land leasing opportunities) has been established or will be enhanced.

5. Maintain the right to appeal all agency determinations.

The proposed draft LCP IP would eliminate the right to appeal ministerial decisions and limit the right to appeal determinations of permit category made by the Director of the Community Development Agency. EAC disagrees with this change and proposes the following language changes to retain the public's right to appeal these types of decisions.

Implementation Plan Language Proposal

To achieve this end, the draft IP should be changed as follows:

22.114.020 Appeal Subjects and Jurisdiction.

B. Determinations and decisions that may be appealed. The following types of actions may be appealed:

1. Determinations issued by the Director pursuant to Section 22.02.030 as to the meaning or applicability of the ~~discretionary~~ permit requirements of this Development Code that are believed to be in error;

22.70.030.B. Determination of permit category. The Director shall determine if the proposed project is categorically excluded, qualifies for a *De Minimis* Waiver, or requires a Coastal Permit that does or does not require a public hearing as follows. ~~With the exception of categorical exclusions,~~ Determinations regarding permit category may be appealed in compliance with Section 22.70.040.

6. Provide public notice and appeal right for second units.

The LCPA IP does not provide for notice of a second unit application, or the right to appeal ministerial decisions to the CCC. CCC guidance to counties is to “provide for some way for the public to provide comments to [the county] and to be informed that the permit for second units can be appealed to the Coastal Commission (if it is appealable).”⁸

Implementation Plan Language Proposal

To achieve this end, the draft IP should be changed as follows:

22.56.030

A. FILING....

B. Public notice. Notice of the application for a Second Unit Permit shall be given per 22.70.050 and comments received shall be retained in the public record.

BC. Project review procedure. ...

CD. Action on Second Unit Permit. ...

22.56.060 Appeal. In a coastal zone district, a second unit decision may be appealed to the CCC if the development satisfies the conditions of 22.70.080.B.1.

⁸ CCC LCP Update Guide, p. 58.

7. Close a loophole that permits structure heights exceeding 25 feet.

The LCPA IP allows a 10% increase in maximum height (e.g. from 25' to 27.5') of an existing structure without a CDP. (22.68.060B)

Implementation Plan Language Proposal

To achieve this end, the draft IP should be changed as follows:

CHAPTER 22.68 – COASTAL PERMIT REQUIREMENTS

22.68.060 – Non-Exempt Projects

Notwithstanding the provisions of Section 22.68.050 – Exempt Projects, a Coastal Permit shall be required for all of the following projects unless the development is categorically excluded or qualifies for a De Minimis Waiver:

B. Alterations within geographically defined appealable areas

improvement that would result in ...
an increase in height by more than 10 percent of an existing structure and/or
any significant non-attached structure such as garages, fences, shoreline
protective works or docks, provided that the maximum height shall not exceed
25 feet

8. Carry forward viewshed protection standards in existing LCP.

There does not seem to be a single location in the draft IP where viewshed protection standards are set out. There is language also needed for non-community development. EAC proposes that the Commission retain language from the Certified LCP, Unit I, p.65.

Implementation Plan Language Proposal

To achieve this end, the draft IP should be changed as follows:

Add language stating that, “new development shall not impair or obstruct an existing view of the ocean “

22.64.100 Community Design

A. Community Design standards

2. Protection of Visual Resources. Development shall be sited and designed to protect visual resources and shall not impair or obstruct an existing view of the ocean . . .” per Land Use Policy C-DES-2.

9. Intergenerational housing.

EAC would like to review Commission staff's revised draft language for "inter-generational housing" in the C-APZ district. We think that the revised language should:

- Define "farm" as all legal lots under common ownership in C-APZ,
- Define "farm operator,"
- Limit types of rentals allowed for farmhouses and IG houses, and
- Imposes clear, enforceable restrictions on IG house occupancy.

Supporting extracts for reference in drafting

22.130 Definitions

Agricultural Production (land use) (coastal). This land use consists of the raising of animals used in farming or the growing and/or producing of agricultural commodities for commercial purposes, including the following and substantially similar uses of an equivalent nature and intensity:

1. Livestock and poultry - cattle, sheep, poultry, goats, rabbits, and horses provided that horses are accessory and incidental to, in support of, and compatible with the property's agricultural production.
2. Livestock and poultry products (such as milk, wool, eggs).
3. Field, fruit, nut, and vegetable crops – hay, grain, silage, pasture, fruits, nuts, seeds, and vegetables.
4. Nursery products - nursery crops, cut plants.
5. Aquaculture and mariculture
6. Viticulture
7. Vermiculture
8. Forestry
9. Commercial gardening
10. Beekeeping

Certified Mendocino County LCP Amendment

Coastal Commission staff report⁹ (4/28/11)

For purposes of appeals to the California Coastal Commission, pursuant to Section 20.544.020(B)(4) of the Coastal Zoning Code and Section 30603(a)(4) of the Coastal Act, the Principal Permitted Use (PPU) for APNs 126-180-10 & 126-180-11 is "Coastal Agricultural Use Types: Forest Production and Processing: Limited." Although this PPU is not appealable to the Coastal Commission pursuant to Section 20.544.020(B)(4) of the Coastal Zoning Code or Section 30603(a)(4) of the Coastal Act, development on APNs 126-180-10 & 126-180-11 may be appealed to the California Coastal Commission pursuant to other applicable provisions of Section 20.544 of the Coastal Zoning Code and Section 30603 of the Coastal Act. All development other than this PPU is appealable to the California Coastal Commission pursuant to Section 20.544.020(B)(4) of the Coastal Zoning Code and Coastal Act 30603(a)(4), as well as any other applicable provisions of Section 20.544 of the Coastal Zoning Code and Section 30603 of the Coastal Act.

22.70.030 – Coastal Permit Filing, Initial Processing

B. Determination of permit category

3. Administrative applications. A public hearing shall not be required when an application is not defined as appealable to the Coastal Commission by 22.70.080 - Appeal of Coastal Permit Decision, unless a public hearing is required for another discretionary planning permit for the same project.

⁹ Mendocino County LCP Amendment No. MEN-MAJ-1-08
Th6a, 4/28/11

4. Public hearing applications. A public hearing shall be required when a project is defined as appealable to the Coastal Commission by 22.70.080 - Appeal of Coastal Permit Decision, unless the proposed project only entails the approval of a second unit use or if it qualifies for a public hearing waiver. If a public hearing is held for another type of discretionary permit, the same review authority shall issue the decision on the Coastal Permit.

Thank you very much for your consideration of our proposed language. We will send you proposed site planning and development standards for viticulture for IP section 22.32 soon.

Respectfully submitted,

Amy Trainer, Executive Director
Environmental Action Committee of West Marin



October 2, 2014

Kevin Kahn, District Supervisor
California Coastal Commission
Via email: Kevin.Kahn@coastal.ca.gov

Re: Further suggestions for Marin County's Implementation Plan

Dear Kevin,

Please accept the Environmental Action Committee of West Marin's comments below on issues to be addressed as you complete the draft of Marin County's Implementation Plan. We greatly appreciate your consideration of our comments and concerns and look forward to working with you on the completion of the IP.

1. Introduction

This comment letter focuses on issues surrounding an application to intensify the use of pasture and grazing lands to viticulture or row crops. Where pasture is proposed to be converted to viticulture or other irrigated row crops, a number of individual and cumulative impacts must be addressed and mitigated through a coastal development permit and potentially also a CEQA initial review, mitigated negative-declaration, or full EIR. Additionally, the County's Design Review process, which is a non-coastal specific process, should be directly incorporated into the Implementation Plan and should contain coastal-specific considerations such as impacts to visual and scenic resource protection, public access, and ESHA protection and enhancement.

2. Hydrologic issues

Marin's 1981 Certified LCP states that, "Geologic studies described by Clyde Wahrhaftig and J. Ross Wagner in "The Geologic Setting of Tomales Bay, 1972," show that there are no dependable supplies of groundwater in any quantity in the Franciscan Formation on the east side of the Bay. Of the springs and creeks which exist in the area, many are intermittent or do not provide sufficient quantities for development on a large scale. . . . In short, water supply is a serious constraint." To EAC's knowledge, no subsequent studies have been performed to alter this very concisely-stated conclusion.

Groundwater pumping during the dry season can draw down streams, impact

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limited groundwater supplies, and impact blue line creeks. For any agricultural operator wishing to intensify the use of their coastal zone property to viticulture or row crops, developing a pond would likely be essential. For viticulture, a pond would be especially necessary if frost is an issue, but also to avoid dry season pumping. The placement of a pond would be critical to avoid impacts on winter flows and hydrologic connectivity.

If a vineyard is on a hill slope, drop drains may be required. Often, winter overland flow is consolidated into a pipe and moved off site (similar to urban development) – the key is to distribute this flow or move it into a pond and avoid shooting the flow into a small channel that then must become very large to accommodate huge amounts of very fast flowing water. These rerouting issues have a very large cumulative impact on the Napa River, for example.

Proposed Requirements for Marin IP:

1. **Groundwater Usage Estimate:** For any new viticulture or irrigated row crop application require a licensed hydrogeologist to prepare a report estimating the amount of groundwater to be used in both rainy and drought years.
2. **Groundwater Pump Test:** For any new viticulture or irrigated row crop application, require a full hydrogeologic study that includes, at a minimum, a 48-hour pump test that monitors all wells within a 5000-foot radius for hydrologic connections and adverse impacts. If adverse impacts are shown after the initial hydro study, potentially require a full EIR. [See sample language below].
3. **Meter All Wells:** Require all new wells and the intensification of existing wells on the project site and within 5,000 feet to be metered with established dry-season pumping allowances and reporting requirements to Marin Environmental Health & Safety Department.
4. **Pond Engineering Study:** Require a certified engineer to prepare a pond study showing drainage flow patterns, size, habitat impacts, etc.

3. Scenic Resource Protection, Habitat conversion

The Certified LCP highlights that any proposed new development on the “open rolling grasslands east of the Bay” can have “the potential for significant adverse visual impacts unless very carefully sited and designed.” Both the shoreline of Tomales Bay and agricultural lands were rezoned in the Certified LCP to bring them under design review standards to protect visual quality. In particular, two types of development -- housing or conversion of pasture land to viticulture -- could have a significant adverse visual impact.

Winter run off from terraced row crops on certain slopes can cause major erosion downstream. Tomales Bay remains an impaired water body under Section 303d of the Clean Water Act for sediment, nutrients and pathogens. To protect the Bay’s already degraded water quality, no viticulture or row crops that use chemical pesticides, herbicides or rodenticides should be allowed. Grading should be held to a minimum and should only be allowed during the dry season – June through October.

Depending on the size of the area proposed for conversion to intensified agriculture, wetlands, roosting and nesting bird habitat may be altered or disturbed.

Proposed Requirements for Marin IP:

1. **Prohibit conversion** of pasture land on slopes greater than 20%.
2. **Require Design Review** to ensure that scenic and visual resources are not adversely impacted.
3. **Require a field survey** of nesting bird habitat based on the location and size of the proposed conversion area.
4. **Require an Agricultural Production and Stewardship Plan** if the property owner has not previously engaged in organic viticulture or row crop operations.
5. **Prohibit the use** of any pesticides, herbicides, or rodenticides as part of the intensified agricultural operation.
6. **Require Best Management Practices** and mitigation measures to address sedimentation.

We hope that you find these recommendations helpful. Attached to this email I've included some research papers that I received from UC Berkeley and hope that this information is also useful.

Please do not hesitate to let us know if we can answer any questions or provide additional information.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Amy Trainer", with a long horizontal flourish extending to the right.

Amy Trainer, Executive Director

****This information is provided as an example of the pump testing requirements and review by a certified hydro geologist that could be incorporated into Marin's IP for new residential development, subdivisions, as well as intensified agricultural operations.**

San Juan County, Washington County Code

8.06.150 Subdivision

Applicants for short subdivisions, long subdivisions, and subdivision alterations shall demonstrate an adequate, potable source of water for each new parcel in the proposed subdivision. For purposes of this section, new parcel shall include all parcels created except parcels containing existing residential structures served by existing water supplies.

Minimum source capacity for individual and community supplies shall be 1,000 gallons per day/connection. The minimum water quality testing parameters for individual and/or community water system sources shall be a complete inorganic chemical analysis and a recent (less than six months) bacteriological sample. All water quality tests must comply with drinking water standards in Chapters 246-290 and 246-291 WAC. See Chapter 13.08 SJCC for fire flow requirements.

A. Community Water Supplies.

1. For a new community system with groundwater as the proposed source, the yield of the well(s) shall be demonstrated by a pump test as outlined in subsection (C) of this section. In addition, the well(s) must have complete water quality tests (inorganic chemical analysis and bacteriological sample) submitted prior to preliminary approval.
2. If the applicant proposes to connect to an existing community water system, the water system must demonstrate to the department of health and community services the ability to provide water to the proposed parcels and compliance with current regulations. Prior to final approval the applicant must provide proof of authorization for service connection for the proposed lots.
3. The community water system or expansion of an existing system must be approved, constructed, and a water service installed to the property line of each lot prior to final plat approval.

B. Individual Wells.

1. If water is to be provided by private wells, in order to provide proof of adequate supply for preliminary approval, a well (or wells) with sufficient capacity to serve the proposed lots as a community system must be drilled and tested, or individual wells must be drilled and tested and approved on each lot.
2. Individual wells must comply with the community water supply standards for siting, testing, and source capacity. Said well(s) must be pump tested as outlined in subsection

(C) of this section. Any conditions of approval for the wells will be incorporated as conditions of final plat approval.

C. Seawater Treatment. Desalination of seawater must be designed by a qualified, licensed engineer and meet applicable local, state, and federal requirements. Designs shall comply with Washington State Health Department guidelines.

D. Pump Test Protocol. All new groundwater supplies shall be pump tested in accordance with DOE's WRIS Bulletin 30, Aquifer Test Procedures. The developer shall complete and submit a pump test protocol to be reviewed by the County hydrogeologist prior to testing. Minimum requirements for conducting the pump test include:

1. Pump tests shall be conducted between mid-July and mid-October or as defined by the County hydrogeologist.
2. At least one monitoring well must be used, if available.
3. The developer shall be responsible for costs associated with the aquifer test.
4. At a minimum, the following steps should apply:
 - a. A step-drawdown test to determine the pumping rate and recovery data,
 - b. A 24-hour sustained-rate pump test using an automatic recording device, and
 - c. If the water level does not stabilize or chloride levels increase (greater than 20mg/L on field samples), continued pumping for 72 hours.

E. Minimum Review Requirements. All new groundwater supplies shall be reviewed and include an evaluation of long-term well capacity and impact on the local aquifer. The County hydrogeologist will determine whether all or part of a hydrogeologic site evaluation (subsection (F) of this section) will be required. The County hydrogeologist will review the initial information and other relevant data and either make a decision regarding the proposal or provide detailed additional testing and analysis requirements needed to evaluate the impacts the proposed withdrawal will have on local groundwater resources. A hydrogeologic site evaluation will be required for projects that have potential for groundwater contamination or impairment. Information required to be submitted for initial review include:

1. Well site approval;
2. Water quality tests for complete inorganic chemical analysis;
3. Surveyed wellhead elevation;
4. Location coordinates;
5. Proposed use;

6. Layout of plat;

7. Pump test results.

F. Hydrogeologic Site Evaluation. If required, a hydrogeologic site evaluation shall be prepared and address resource availability in relationship to the scope of the project. The hydrogeologic site evaluation must address requirements as specified by the County hydrogeologist which may include but is not limited to the following:

1. Hydrogeologic Setting.

a. Description of the geologic setting of the site illustrated with geologic and soil maps.

b. Description of the occurrence and movement of groundwater in the area, including a general discussion of the aquifers present in the area.

c. General discussion of groundwater availability in the area, including a discussion of historic problems such as well failures or seawater intrusion.

d. A scaled map showing location of wells and springs within 1,000 feet of the site or as required by the County hydrogeologist.

2. Site-Specific Resource Availability.

a. An aquifer test conforming to the guidelines found in WRIS Bulletin No. 30. The test should be analyzed to determine the hydraulic properties of the aquifer (storativity and transmissivity), and to the degree possible, the spatial variability of these properties.

b. A map(s) showing static water level elevations for the aquifer(s) proposed for use for the project.

c. An evaluation of theoretical changes to water level elevations resulting from the proposed withdrawal, and the method that was used.

d. An evaluation of the potential to induce or exacerbate seawater intrusion in the aquifer.

G. Project actions that cannot mitigate potential impacts that degrade or impair the groundwater source will be denied. (Ord. 22-2013 § 9; Ord. 20-2007 § 6; Ord. 10-2001 § 9; Ord. 14-2000 § 4; Ord. 14-1996. Formerly 13.06.150)



February 17, 2015

To: California Coastal Commission
From: Environmental Action Committee of West Marin
Re: Comments on Marin County Implementation Plan

Introduction

The Commission staff edits, dated 10/17/14, provide major improvements and precision to the County-submitted IP, particularly the Agriculture provisions.

EAC has supported provisions for additional farm-family housing and has been constructively engaged with dairy and ranch operators to provide increased permitting flexibility consistent with fundamental preservation and protection of coastal act priorities, including of environmentally sensitive habitat areas, visual resources, and public access.

The County is seeking unprecedented levels of authority to approve, or exclude from permit requirements, coastal development without adequate provision for public participation and oversight. The County's proposals would undermine the public's rights mandated under Section 30006, and would remove vital checks-and-balances on the siting, type, and amount of new development on these sensitive lands.

Unsurprisingly, additional changes to the October draft IP are necessary to maintain the coastal resource protections in the certified LCP. Under the draft IP, significant development on agricultural lands can be permitted without the opportunity for public comment and hearing at the county level, or appeal to, or review by, the Coastal Commission. It is therefore vital that the IP contain specific objective standards for non-appealable development, ensure thoroughgoing staff review, and provide consistent opportunities for meaningful public participation.

In this memo, we summarize the most important of those needed revisions.

EAC has not included the issues and comments raised in November 2014, but is interested in the staff's determination of those issues and concerns. For convenience, those comments are attached in an appendix beginning on page 14.

Substantive and Ag-related items

1. Restore Substantive and Procedural Components of Design Review (DR).

The Commission staff's effort to incorporate the standards of Design Review into the IP is not complete.

- DR currently triggers a public hearing for large development or proximity to neighboring property.
- DR currently requires affirmative findings (22.82.040I.A – G)

The effect of eliminating Design Review is to allow major new development to be approved administratively, without a public hearing, including:

- **Up to 8,000+ sf of housing on a C-APZ parcel**
- **New processing facilities (up to 5,000 sf) in C-APZ or alteration of exterior appearance of an existing structure. (22.32.025.B.2)**
- **New retail sales activity (up to 500 sf) on agricultural parcels**

Design Review is critical to protecting Visual Resources

The certified LUP (Unit II, p. 194) rezoned agricultural land “from standard to planned districts in order to bring them under master plan and design review standards and to allow design flexibility in these sensitive areas.”

Design Review is currently required for new residential structures in all planned districts, and for additions exceeding a certain area for existing residences.

Elimination of a fee for county appeals, combined with eliminating public hearings, will likely increase the number of county appeals simply to obtain a full staff report and public testimony. This limits the public's protected right to “fully participate” in all coastal developments under section 30006. A county appeal is inherently biased to favor the lower decision; it does not receive an **independent** staff report, and we strongly believe that it should.

A public hearing and a full staff report should be required for all non-excepted development.

Suggested language:

A public hearing shall be required for any residential development exceeding 2500 square feet of building area and for any new agricultural processing or retail sales facility.

Elimination of Design Review has unintended effects on allowed/prohibited uses:

- Limit on area of all detached accessory structures within a rear yard setback. 22.32.130.A.c
- Prohibition of tennis court lighting. 22.32.130.D.2
- Residential use in commercial/mixed use areas. 22.32.150A

2. **Agricultural processing in a new structure or that significantly alters the exterior** appearance of an existing structure should be a Permitted Use (not PPU) and subject to a mandatory public hearing with the potential for appeal to the Commission.

22.32.026.B

3. **Maintain a nexus of agricultural structures and agricultural uses to agricultural production.**

The “and necessary for” and “necessary to” language is essential (necessary!) to ensure that a nexus exists between a proposed agricultural development or use to agricultural production (22.32.021, -022, -023, -024, -025, -026, -028, -115, 22.62.060, 22.130.030).

Without this language, if an owner does sell off legal lots then they only get the PPU farmhouse and IG homes if the purchaser can show such development is “necessary for” the production of agriculture.

This would help preclude hobby farms or estates, and maintain active, affirmative agricultural production. It also ensures that any proposed commercial processing facility is truly an accessory structure to the agricultural production on that farm.

4. **Maintain a nexus of PPU agricultural processing to on-site agricultural production.**

Under the draft provisions 22.32.026 (2), there need to be reasonable limits on what can be processed at the facility so that it meets the definition of a PPU. If the owner/operator of an agricultural property wants to process [or sell] products exclusively from that land in a small facility, then he or she should be exempt from the need for a use permit, as presently proposed. No hearing would be required in the process.

However, if it is intended that agricultural products from other properties will be involved, then the proposed Coastal Permit should be handled in the same way as a use permit, but without any appeal to the Coastal Commission. This would allow the Community Development Agency to apply the LCP and County policies to the particular case, crafting a Coastal Permit that is appropriate for that unique operation. It would also allow the public and community organizations to participate actively in the process through public hearings. That’s much more likely to yield a good result than handling the matter administratively, even with ongoing informal consultations, with the possible appeal of the permit decision to the Planning Commission and BOS.

See language in 5. Below.

5. Maintain a nexus of PPU retail sales to on-site agricultural production.

Proposed solution: 22.32.027 – Agricultural Retail Sales and Facilities (Coastal)
[REVISIONS INCLUDED BELOW]

(Coastal) The standards of this Section shall apply to the sale of agricultural products as defined in Section 22.130.030 (“Sale of Agricultural Products”). For Agricultural and Resource-Related Districts outside the Coastal Zone, see Section 22.08.040.F.

The sale of agricultural products is allowed as a Principal Permitted Use in the C-APZ zoning district provided it meets all of the following standards: (1) the building(s) or structure(s), and outdoor areas used for retail sales do not exceed an aggregate floor area of 500 square feet; (2) except as provided in the following paragraph, and with the exception of incidental additives or ingredients, agricultural products to be sold are produced on the same site, or on other agricultural properties located in Marin County that are owned or leased by the sales facility owner or operator; (3) the operator of the sales facility is directly involved in the agricultural production on the property on which the sales facility is located; and (4) sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the sales facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.

Notwithstanding the foregoing, other agricultural products produced in Marin and Sonoma County may be sold as a Principal Permitted Use on a limited basis under these conditions:

- The Coastal Permit shall have appropriate limitations and conditions as to the nature and quantity of off-site products sold and the operation so as to preserve the character and nature of the facility and operation as being primarily engaged in selling products produced on that land, and,
- The Coastal Permit shall only be issued after following the same procedures and adhering to the same standards for the issuance of a use permit for the facility and operation, including a public hearing.

A Conditional Use Permit approval is required for agricultural retail sales which exceeds an aggregate floor area of 500 square feet or for an agricultural retail sales facility of any size which does not comply with one or more of the four standards listed above.

6. Agricultural Activities, Ongoing.

As part of this definition in 22.130, it must be clear that “ongoing” agriculture does not include the right to plant, disc, harrow, till, grade, seed, etc. the wetland areas, stream conservation areas, or the 100-foot buffers for any ESHA.

We believe that the ten-year limitation is reasonable.

7. Mariculture – 22.32.105

As we have noted before, the last sentence of subsection A. needs a qualifier, such as: “Support provision of onshore facilities necessary for the level of allowed shellfish production derived solely cultivation and harvest from Marin County waters.”

8. Lack of codified standards.

Although 22.70.070 Required Findings (for a CDP) itemizes findings that must be made to issue a CDP, most of the subsections (B-M) only refer to LUP policies; most references to specific IP standards simply refer to those same LUP policies.

In the following subsections all standards simply refer to LUP policies. The detailed standards for protecting each type of coastal resource need to be codified in the IP:

- Biological Resources Standards (22.64.050 B.1 to B.11.)
- Water Quality Standards (22.64.080.B.1 to B.7)
- Grading and Excavation Standards (22.64.080.C.1 to C.10)

9. Community centers in residential zones

This use should be available only to non-profit organizations. Monitoring profitability from community center use of a residence would require county planners to immerse themselves in personal financial records.

Suggest edits:

22.130.030 **Community Centers (land use).** This land use consists of multi-purpose meeting and recreational facilities operated by a not-for-profit organization, and typically consisting of one or more meeting or multi-purpose rooms, kitchen and/or outdoor barbecue facilities, that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc.

10. Limit scale of single-family residential development

In all zoning districts except C-APZ the maximum building area for a single family residence, including garage and accessory buildings, shall not exceed 4,500 square feet. Where permitted, the scale of a second unit would not be included in calculating the maximum building area of the single-family residence. In the C-APZ district, the maximum building area of agricultural dwelling units is given by 22.65.040.

Single Family Residential Dwelling Size Limit: The following changes are proposed to the Draft IP to limit the size of all new or reconstructed Single-Family Dwellings to 3500sf for the residence plus up to 500sf for a garage:

22.130:

Definition of “Redevelopment, Coastal”: At the beginning of the definition, add two sentences that states: “All redevelopment proposed pursuant to this definition, except for the C-APZ district, shall be subject to the overall limit on the size of Single-Family Dwellings of 3,500 square feet plus up to 500 square feet for a garage. In all zoning districts, where an existing residence exceeds 3500 square feet in size, in no case shall any redevelopment be allowed that increases the total square footage by more than 10% of the present lawfully permitted or legally nonconforming size.”

Definition of "Single-Family Dwelling": after the existing first sentence of the definition, add the following sentence: With the exception of the C-APZ zoning district, all new Single-Family Dwellings shall be limited to 3,500 square feet plus up to 500 square feet for a garage. This square footage limit applies to proposed Coastal Redevelopment of Single Family Dwellings, subject to minor limitations.

Table 5-1-c: Add a Footnote 11 to the C-ARP, Single-family dwellings column stating: With the exception of the C-APZ zoning district, all new Single-Family Dwellings shall be limited to 3,500 square feet plus up to 500 square feet for a garage. This square footage limit applies to all proposed Coastal Redevelopment of Single Family Dwellings, subject to minor limitations.

Table 5-2-c: Add a Footnote 3 that would apply across the board to the row entitled “Single-family dwellings” that states: With the exception of the C-APZ zoning district, all new Single-Family Dwellings shall be limited to 3,500 square feet plus up to 500 square feet for a garage. This square footage limit applies to all proposed Coastal Redevelopment of Single Family Dwellings, subject to minor limitations.

Table 5-3-c: Add a Footnote 4 (once numbering is corrected to account for existing strikeouts) that would apply across the board to the row entitled “Single-family dwellings” that states: With the exception of the C-APZ zoning district, all new Single-Family Dwellings shall be limited to 3,500 square feet plus up to 500 square feet for a garage. This square footage limit applies to all proposed Coastal Redevelopment of Single Family Dwellings, subject to minor limitations.

Environmentally Sensitive Habitat Areas

22.64.050

There need to be actual objective standards to guide proposed development that would encroach upon an ESHA buffer or that would impact it. We reaffirm our thanks that you deleted “significant” impacts to ESHA as the standard in 22.64.050A.1.d and request that you keep it that way.

San Luis Obispo’s IP has some good language – with the exception of the “significant impacts” standard - that could be included into Marin’s IP, including:

- 1) SLO IP Section 23.07.170.a that lists the application contents alternatives analysis before allowing development as the "least damaging alternative"; and their exception for the purpose of avoiding a taking -- again, just as examples.
- 2) SLO IP Section 23.07.170.d Alternatives Analysis for development of new, expanded, or reconstructed roads, bridges, etc.
- 3) SLO IP Section 23.07.170.e(2) Development in ESHA to Avoid a Takings
- 4) SLO IP Section 23.07.170.e(4) Steelhead Stream Protections and No Net Loss policy
- 5) SLO IP Section 23.07.172.d(2)(i)-(iii) Wetlands Setback Adjustment – but retain Marin’s minimum 50-foot buffer standard.

Due Process and Procedural Items

1. Appealability of a CDP that requires a conditional permit.

22.62.040.B.4 (Allowable Land Uses and Permit Requirements) applies only to a Use Permit; it needs to also apply to a Variance.

If a county ordinance provides for exception to a LCP standard by issuance of a Use Permit or Variance, a CDP use that requires a Use Permit or Variance is a conditional use -- even if that use is listed as P or PP in the tables. A CDP subject to a Use Permit or a Variance needs to be appealable to the Commission. Without the ability to appeal, the LCP could be amended by an ordinance providing for exceptions to CDP requirements by issuance of a Use Permit or Variance. This would override certified LCP standards, without possibility of Commission review.

Suggested edits:

22.62.040.B.4. (Coastal zone permit requirements.)

4. Conditional uses, subject to compliance with all applicable provisions of this LCP, Coastal Permit approval where required, and subject to first obtaining any Building Permit and other non-coastal permits required by the County Code, including approval of a Use Permit (Chapters 22.48 and 22.50) or Variance (Section 22.70.150). Although the Use Permit or Variance is not part of the Coastal Permit and is not subject to appeal to the Coastal Commission, any Coastal Permit that includes approval of a Variance or a conditional use is appealable to the Coastal Commission. Conditional uses are shown as "U " uses in the tables. [See Section 22.70.080 for Appeal of Coastal Permit Decisions]

Suggested addition to definition:

Appealable Development (coastal): ...

In addition, any local action on a CDP application for the following types of development are also appealable: (1) approval of CDPs for any type of development that is not designated as the principal permitted use under the zoning ordinance. (2) approval of CDPs for any development that is permitted by Variance that does not satisfy the development standards (height, setback, minimum area or maximum density, ...) of the zoning district; and (3) ...

2. Multiple principal permitted uses.

For most zoning districts the permitted use tables (5-1-a – 5-3-f) show multiple PPs. Language is needed to explain clearly that in these districts all uses are appealable [cf. the Commission staff decision on the appealability of The Barn Project, Pt. Reyes Station]

and that PPU's are appealable if the proposed development is within 100 feet of ESHA or 300 feet of a coastal bluff.

Suggested edits:

22.62.040 B.2 ... A Coastal Permit decision for ~~a~~ the principal permitted use in a zoning district is appealable to the Coastal Commission only if the project is located in a geographically relevant appeals area; does not require a Use Permit or Variance; is located on tidelands, submerged lands, or public trust lands; within 100 feet of any coastal wetland, estuary, or coastal stream; or within 300 feet of the top of the seaward face of any coastal bluff, or if the project constitutes a major public works project or major energy facility. If more than one use is designated as a principal permitted use in a zoning district then all uses are appealable to the Coastal Commission.

3. Exclusion and Exempt Development Determinations: Notice Needed

The notice provisions need to be improved to ensure that information regarding all determinations is provided to the public in time to allow appeal of any determination.

22.68.040.B Categorically Excluded Development

The Notice provision provides for notice of the categorical exclusion determination to interested parties, but only if specifically requested for that use at that specific location. What is needed is a mechanism for timely notice to public, or ability to receive notice of all CatEx determinations in time to file appeal, e.g. posting on website at time of determination.

22.68.050 Exempt development

This notice provision similarly needs a mechanism for notice to public in time to file appeal.

Suggestion:

Require notice of determinations to be publicly announced by posting on the agency website the day the determination is issued and require provision for interested parties to subscribe to e-mail notice of new determinations.

4. Solar energy systems.

22.32.161.A Roof-mounted solar energy systems may exceed the 2-foot excess height limit if findings of consistency with LCP are made. If the development is exempt from coastal permit, how is this finding made and publicly noticed?

5. Height limits.

LUP policy DES-3 (Limited Height of New Structures) provides: "Limit all new construction to a maximum height of twenty-five (25) feet ... In all cases, the height

limits specified in this policy are maximums and not entitlements.” Therefore, a Coastal Zone Variance cannot provide relief from the maximum height.

Suggested edits:

In 22.64.045 (Property Development and Use Standards)

3. Height Limits and Exceptions

Delete subsection:

F. Height limit exceptions by Variance.

22.70.150 – Coastal Zone Variances

A. ... Coastal Zone Variances provide relief from standards relating to height, floor area ratio, and yard setbacks.

In Table 5-4-a, in footnote (4), delete

~~b. Single family dwellings over 25 feet in height shall require Variance approval in compliance with Chapter 22.70.150 (Coastal Zone Variances), in addition to a Coastal Permit~~

In Table 5-5, footnote (3), delete the sentence:

~~Single family dwellings over 25 feet in height shall require Variance approval in compliance with Chapter 22.70.150 (Coastal Zone Variances), in addition to a Coastal Permit~~

6. Appeal of permit category determination.

Language is needed to clarify the date of Agency decisions affecting appeals.

A. County appeal procedure. Decisions of the County on a Coastal Permit (22.70.060 – Decision on Coastal Permit) and permit category determinations (22.70.030.B – Determination of Permit Category) may be appealed to the Planning Commission and Board as follows:

22.70.080.A.3

All appeals shall be filed with the Agency ... must be filed prior to the tenth business day after “the decision that is the subject of the appeal”.

In the case of a determination that a use is a Principal Permitted Use (and thus not subject to public hearing or staff report), is “the tenth business day after the decision that is the subject of the appeal” the date of decision of a coastal permit? Or, is it an earlier date?

7. PPU in C-ARP zones.

Residential use is PPU in C-AG3; agricultural use is PPU in C-AG1 & C-AG2. The Tables 5-1-a,b,c need to distinguish between PPUs in C-Ag1, 2 and 3.

8. Suggested addition and edits to definitions (Chapter 22.130.030)

Suggested edits:

Agricultural Accessory Structures (land use) (coastal). Uninhabited structures that are customarily accessory and incidental to, in support of, compatible with, and necessary for agricultural production, and that are for the storage of farm animals, implements, supplies or products, and that contains no residential use, are not accessory to a ~~residential~~ agricultural dwelling use, and are not open to the public, including: ...

Suggested addition to definition:

Appealable Development (coastal): ...

In addition, any local action on a CDP application for the following types of development ~~are~~ is also appealable: (1) approval of CDPs for any type of development that is not designated as the principal permitted use under the zoning ordinance. (2) approval of CDPs for any development that is permitted by Variance that does not satisfy the development standards (height, setback, max area, ...); and (3)

Suggested addition in 22.62040.B.4.:

... however, any Coastal Permit decision for a conditional use including a Coastal Variance or a land division, is appealable to the Coastal Commission.

Suggested addition to definition:

Conditional Use (coastal). A land use allowed in the applicable zoning district by Article 5 (Zoning Districts and Allowable Land uses) which is not otherwise permitted in that district, but which may be permitted by the County through a Use Permit or Variance under conditions set forth in the Development Code. County decisions on Coastal Permits allowing such uses are appealable to the California Coastal Commission.

Definition of contiguous properties should not be restricted to mergers, but should also apply to, e.g., 22.70.030A.2 (Coastal Permit Filing, Initial Processing A. Application and filing).

Suggested addition to definition:

Contiguous Properties. For the purposes of Section 22.70.030 (Coastal Permit Filing, Initial Processing) and Chapter 22.92 (Merger of Parcels), all adjoining land owned or controlled by the applicant, the property lines of which touch or join at more than one point, or the property lines of which are separated only by a public or private street, road or other public or private right-of-way, or separated only by other land owned by the applicant.

Miscellaneous editorial corrections

1. Title...“Article V (Coastal Zones - Permit Requirements and Development Standards)”

Title is insufficiently comprehensive. Article V (i.e., the LCP IP) also encompasses allowable land uses and permit administration.

2. The LCP IP uses both “principal permitted use” and “principally permitted use”

22.32.115 – Determination of Non-Agricultural Uses (Coastal)

22.32.115.A (specifying a PPU for a non-ag use) doesn’t apply to COASTAL zone districts. DELETE this subsection?

22.32.115.A

Permitted use, zoning districts. Non-agricultural uses may be allowed as a **principal permitted land use** in the following zoning districts: ~~A2, A3 to A60, C-ARP, C-APZ and C-O-A~~, and as allowed by Articles ~~II (Zoning Districts and Allowable Land Uses)~~ and V (Coastal Zones - Permit Requirements and Development Standards) subject to the requirements of this section. ~~This Section does not apply to the following zoning districts: ARP 1 to ARP 5.~~

3. Duplicated section numbers:

22.32.025 – Airparks; Farmhouse (Coastal)

22.32.115 – Non-Agricultural Uses in Agricultural Zoning Districts (non-Coastal);
Non-Agricultural Uses in Agricultural Zoning Districts (non-Coastal)

4. Duplicated subsection number

22.70.030.B.2 Exemption; De Minimis Waiver

5. Missing/misnumbered sections

22.70.160 – Coastal Zone Variance Exemptions. No such section.

22.70.170 – Decision and Findings. No such section. It appears to be (at p166)

22.70150. B. Decision and Findings on Coastal Zone Variance

6. Renumbering

22.64.050.B.8 – B.11 need to be renumbered

7. Undefined terms:

Administrative Coastal Zone Variance

Variance. [refers to Chapter 22.54, not part of the LCP]

Farm Operator

**Environmental Action Committee of West Marin
Comments on Marin Coastal Implementation Plan Draft
dated 10/17/2014**

IP Section	Comments and Recommendations
	<p>We appreciate Commission staff's work to greatly improve this draft of the IP – your extensive work and careful attention to detail to address deficiencies in the County's draft shows.</p> <p>We have some concerns that are summarized and then explained in more detail below. Thank you.</p> <p><u>Summary of Outstanding Concerns:</u></p> <ul style="list-style-type: none"> • Continued deletion of public's longstanding right of appeal to Commission for important CDP decisions imposes a significant public risk, detriment given county's history of erroneous decisions. It also denies the public's right under the Coastal Act to participate in the planning process. • Commission staff treatment of PPU for C-APZ runs counter to Commission's LCP Guidance Document. • Deletion of Design Review would eliminate important public hearings. • Limits to ESHA Buffer encroachments are still needed. • Grading plan threshold trigger and maximum slope limit are missing. • Groundwater well provisions are a good start but incomplete; standards needed for both new and expanded wells. • Farmworker housing allowance completely unrestrained and unguided. • Mariculture support facilities must be limited to bivalves grown in Tomales Bay – no expansion for "ship and dip" oysters. • Critical visual resource protection terms not defined. • Given sea level rise and Hwy 1 susceptibility to being underwater during the expected lifetime of the LCP, we should not be encouraging new commercial operations there. • We never received updated build-out analysis from County.

<p>Reduced right of appeal to Commission 22.65.040.B.1</p>	<p>Broadened definition of PPU as “agriculture” in C-APZ. Nearly all ag housing, accessory structures, processing facilities, and small retail sales facilities cannot be appealed unless in geographical appeals area or located in significant protected resource areas. Inconsistency between proposed IP and CCC Guidance Document for establishing a single “principal permitted use” for purposes of appeal to the Commission for CAPZ district and other “principally” permitted uses. <i>This removes essential appellate authority of Commission, necessary as a check on local governmental error,</i> and to ensure that the public has the opportunity to participate in the planning process.</p> <p>RECOMMENDATION: For purposes of appeal to the Commission, define the PPU in C-APZ as “agricultural production”.</p>
<p>Elimination of Design Review [22.42] throughout IP</p>	<p>Public Hearings for Ag Development: <i>Deleting Design Review removes public hearing requirement – a necessary means to check erroneous or ill-advised County decisions for PPU</i> [like the appeal of Pt. Reyes Station accessory structure last week]. There can be no question that public input and oversight of CDP approvals is needed in Marin County.</p> <p>Dev code 22.42 requires DR for total building area (existing + new) > 5,500 sf on large lots. Omitting DR for C-APZ would allow 7000 sf + garage + office without DR. And with no public hearing.</p> <p><u>Baseline for Comparison:</u> Interim Code DR. Applies in CAPZ, with exceptions.</p> <ul style="list-style-type: none"> - 22.82.020I applies to all new buildings, structures ... except for exemptions. - 22.82.030I exemptions (partly 1997 ordinance #3252): <ul style="list-style-type: none"> A. single-family dwellings in (<u>non-coastal</u>) residential districts < 4000 sf and < 30’ height. B. ag buildings (in any zoning district) ... >300’ from property line and >300’ from street <p>RECOMMENDATION: Incorporate directly into the IP either Design Review or an equivalent process that allows for public hearing on significant agricultural residential developments.</p>
<p>22.64.050 A.1.c.</p>	<p>ESHA Buffer Areas: The significant loopholes created by the Marin County LUP for the 100-foot ESHA buffer need to be limited, otherwise developers will in most cases go for a buffer exception. One thing to</p>

	<p>think about is potential for 100-foot clustering requirement for new agricultural dwellings or buildings to conflict with ESHA buffer regulations for keeping it PPU.</p> <p>RECOMMENDATION: Add language stating that, 1) proposed development may be modified by the Director in order to avoid ESHA Buffer encroachment only upon significant findings in biological assessment, 2) buffer exceptions only allowed for that zoning district's PPU, 3) only the absolute minimum ESHA Buffer exception will be allowed, and 4) burden is on the applicant to present clear and convincing findings of need, lack of impact from proposed buffer reduction.</p>
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<p>22.65.040 c.1.e.</p>	<p>Ag Dwelling Units</p> <p>5. <u>IG Housing</u>: Public has requested, but not received, an updated County build-out analysis regarding number of allowable IG houses under the LUP approved by Commission, as the actual number is likely lower than 27.</p> <p>8. <u>Farmworker Housing</u>: Must require needs application and needs assessment submittal after 2 units, not 12; 12 units is exceptionally large threshold to trigger any oversight of development. Also should require public hearing on more than 2 units or where any new units are part of proposal for intensification of land use for row crops or viticulture.</p> <p>RECOMMENDATIONS: 1) Require Marin County to provide revised Excel spreadsheet explaining the potential for IG Housing; 2) Add requirement for needs assessment submittal for worker housing beyond 2 units or where any new units are part of land intensification proposal, and require public hearing.</p>
<p>22.64.080 A.4 and C.1-3</p>	<p>Grading Standards</p> <p>A.4. Where are the standards for a “preliminary grading plan”?</p> <p>C.1 References “standards” in CW-4 when that LUP contains no standards.</p> <p>C.2. This section references loosely worded LUP sections that contain no standards.</p> <p>C. 3. WR-6 and 7 do not address “extent” of grading.</p> <p>RECOMMENDATIONS: 1) Put Dept. Public Works entirely in charge of grading plan review and approval [think this is mostly the case but want to be sure]; 2) copy San Luis Obispo Grading Ordinance that requires a Grading Plan for movement of 50 or more cubic yards of earthen material;</p>

	3) Prohibit development of any kind on slopes steeper than 20% grade.
22.64.140 A.1.b.	<p>Groundwater Sufficiency: Community Development Agency staff are not qualified to gauge adequacy of hydro engineering report. Well yield may need to be significantly higher depending on the type of proposed development, thus additional pump testing, studies and analysis may be necessary.</p> <p>RECOMMENDATIONS: 1) Hydro engineering report should be submitted to Dept. of Environmental Health & Safety for assessment, and 2) add text stating that “results of initial pump test may require full hydro-geologic assessment prior to CDP approval.” And 3) require a meter for all new or expanded wells.</p>

22.32.105.A	<p>Mariculture: Must limit the expansion and creation of “support facilities” to bivalves grown in Tomales Bay – no expansion of support facilities based on “ship and dip” oysters from Washington state or Mexico.</p> <p>RECOMMENDATION: Revise last sentence of this section to read: Support provision of onshore facilities necessary to support mariculture operations <u>that utilize bivalves grown and harvested in Tomales Bay or Marin County</u> coastal waters.</p>
22.65.040	<p>PPU As Agriculture: Inconsistency between proposed IP and CCC Guidance Document for establishing a single “principal permitted use” for purposes of appeal to the Commission for CAPZ district and other “principally” permitted uses.</p>
22.64.100	<p>Visual Resource Protections: The terms “public view” and “public viewshed” are not defined.</p> <p>RECOMMENDATIONS: 1) Define “public viewshed” as “the scenic area of Marin’s coastal zone as seen from public waters and recreation areas, like Tomales Bay, and public beaches and trails, like Tomales Bay State Park and Point Reyes National Seashore.”</p> <p>2) Add the following text in IP, “To assure that LCP implementation is consistent with protection of scenic and visual resources, avoidance of impacts through site selection and design alternatives shall be the preferred method for preserving scenic views from the public viewshed over mitigation through vegetation screening.”</p>
22.68.040, .050	<p>Noticing for exemptions. Categorical exclusions and exempt development determinations can only be appealed if there is timely public notice of the determination. The public cannot be expected to specifically request notice at each potential location.</p>
22.70.030	<p>Noticing for determination of permit category. The public has the right to appeal these determinations. Determinations can only be appealed if there is timely public notice of the determination. The public cannot be expected to specifically request notice at each potential location.</p> <p>RECOMMENDATION: Require posting on the Agency’s website of all exclusion, exemption, and permit category decisions sufficiently in</p>

	advance of the appeal deadline.
22.68.060.B	<p>Increase in height in geographically appealable areas. Alterations that increase height by not more than 10% are exempt development.</p> <p>RECOMMENDATION: add: <u>“provided that the maximum height shall not exceed 25 feet for the principal structure, and 15 feet for any accessory structure.”</u></p>



MEMORANDUM

To: California Coastal Commission staff
From: Amy Trainer, executive director, EAC of West Marin
Date: March 23, 2015
Re: Concerns about viticulture development approval process in Marin

The Environmental Action Committee of West Marin (EAC) continues to be concerned about Marin County's reliance on its 2011 "Vineyard Erosion and Sediment Control" ordinance, Marin Code 23.11 (the "Vineyard Ordinance"). The County staff has stated at recent meetings about the LCP Amendment that the Vineyard Ordinance would govern all future viticulture development in the coastal zone.

EAC understands that unless the Coastal Commission certifies the Vineyard Ordinance as part of the Marin LCP Amendment, the Vineyard Ordinance cannot govern viticulture development in the coastal zone. Due to the many failings of the ordinance enumerated below, EAC strongly believes the ordinance should not govern viticulture development. Rather, viticulture development in the coastal zone is a land use matter that should be governed by specific standards for land use and sensitive resource protection. When the Board of Supervisors considered the Vineyard Ordinance, EAC raised numerous issues of concern regarding both substantive and procedural issues, none of which were addressed in a meaningful or substantive way either in the ordinance or since it was adopted.

Based on the concerns set forth below, EAC requests that you include a statement in the LCP Implementation Plan to the effect that the **Marin Vineyard Ordinance does not govern viticulture development in the coastal zone but all coastal permit regulations and standards in the updated LCP are applicable to any viticulture proposal.**

EAC's continued concerns with the Vineyard Ordinance include the following:

1. The Vineyard Ordinance may contradict or otherwise be inconsistent with various provisions of the Coastal Act, including Sections 30006, 30240, 30251, and 30603.
2. The Vineyard Ordinance vests sole authority to regulate and permit all activities associated with the planting or replanting of a vineyard - grading, terracing, ripping, soil chiseling, removal of vegetation, field road construction, installation of underground drainage systems and water supply systems –with the County's Agricultural Commissioner (the "Ag Commissioner"). *See* Sections 23.11.060 and 23.11.090 under the definition of "Initial vineyard planting work."

3. The Vineyard Ordinance establishes a ministerial permit system - the Ag Commissioner is required to issue a permit for the proposed vineyard development on slopes up to 50% as long as a “County recognized qualified professional” issues a report saying the vineyard development is alright. A “County recognized qualified professional” can include a certified rangeland management specialist or “other registered or certified professional acceptable to the agricultural commissioner . . .” An actual licensed civil engineer report is required only in limited circumstances. Sections 23.11.090, .100, and .120.
4. The Ag Commissioner is not required to consult with the Community Development Agency – the sole agency authorized to implement the Local Coastal Program and issue development permits - or with the Department of Public Works – the agency that issues grading permits and oversees erosion control measures. Section 23.11.150.
5. The Vineyard Ordinance limits the Ag Commissioner’s review of the submitted erosion plan and proposal to develop a vineyard on slopes up to 50% to merely ensuring the plan was “prepared, reviewed, and certified in accordance with this chapter, and that the plan includes all of the information required by that section.” There are no substantive or meaningful standards to guide issuance of a permit. Section 23.11.150.
6. Section 23.11.090 puts limits on the use of “best management practices” by defining that term as “those practices or sets of practices that have proven to be the most effective feasible means of preventing or reducing stormwater runoff, erosion, and sedimentation in vineyards, *given technological, institutional, environmental, and economic constraints.*” (Emphasis added).
7. Section 23.11.170 does not establish the amount of riparian setback or give any standards for determining the appropriate setback distance. The provisions of the Marin County Code that the applicant “shall comply with” are not set forth. In general, the Code exempts agricultural activities from riparian setback requirements and the definition of “stream” in 23.11 is inconsistent with other provisions of the Code and LCP.
8. Section 23.11.190 states the erosion and sediment control plan requirements, but does not include actual requirements because there are none. Subsection (b)(2) states that the “agricultural commissioner shall prepare and maintain detailed plan requirements and have them available on request.”
9. This Vineyard Ordinance provides no oversight of surface water or groundwater use for vineyards. Vineyards consume an exceptionally large amount of water and have the potential to significantly impact community groundwater supplies. This ordinance provides no testing or monitoring requirements for the viticulture water source, including the number of new wells, their location, the amount of water used from each, requiring that a meter be placed on new and existing wells used for viticulture, and requiring monitoring reports be submitted to monitor overall groundwater levels and consumption. See 23.11.140.
10. The Vineyard Ordinance does not provide any public process for neighbors or the public to review and comment, or possibly appeal a proposed vineyard. The public should be afforded an opportunity to comment on a proposed vineyard’s size, location, construction

near streams or impacts to wildlife and wildlife habitat, and other possible impacts. The only appeal provisions is for a person the Ag Commissioner finds has likely violated the ordinance, yet the Commissioner is explicitly designated as the sole review authority for appeals.

11. This Vineyard Ordinance does not address the use of pesticides or other man-made chemicals that are often used by viticulture operators, nor does it address their impacts on the community water supply, bird and fish habitat, or nearby organically certified farms. See 23.11.140.
12. There is no indication that the erodible soils and slope standards are based on science or best practices.

Thank you for your consideration of our concerns.

Memorandum

From: Environmental Action Committee of West Marin
To: Coastal Commission Staff
Date: March 27, 2015
Re: Top 10 Issues of Concern with Draft Marin County Implementation Plan

1. Restore Substantive and Procedural Components of Design Review (DR).

The Commission staff's effort to incorporate the standards of Design Review into the IP is not complete.

- DR currently triggers a public hearing for large development or proximity to neighboring property.
- DR currently requires affirmative findings (22.82.040I.A – G)

The effect of eliminating Design Review is to allow major new development to be approved administratively, without a public hearing, including:

- Up to 8,000+ sf of housing on a C-APZ parcel
- New processing facilities (up to 5,000 sf) in C-APZ or alteration of exterior appearance of an existing structure. (22.32.025.B.2)
- New retail sales activity (up to 500 sf) on agricultural parcels

Design Review is critical to protecting Visual Resources: The certified LUP (Unit II, p. 194) rezoned agricultural land “from standard to planned districts in order to bring them under master plan and design review standards and to allow design flexibility in these sensitive areas.”

Design Review is currently required for new residential structures in all planned districts, and for additions exceeding a certain area for existing residences.

Elimination of a fee for county appeals, combined with eliminating public hearings, will likely increase the number of county appeals simply to obtain a full staff report and public testimony. This limits the public's protected right to “fully participate” in all coastal developments under section 30006. A county appeal is inherently biased to favor the lower decision; it does not receive an **independent** staff report, and we strongly believe that it should.

RECOMMENDATION: A public hearing and a full staff report should be required for all non-excepted development.

Suggested language:

A public hearing shall be required for any residential development exceeding 2000 square feet of building area or residential additions and accessory structures that result in a total of 2000 square feet or more of building area and for any new agricultural processing or retail sales facility.

2. Maintain a nexus of agricultural structures and agricultural uses to agricultural production.

The Commission staff's addition to the draft IP of "and necessary for" and "necessary to" language is essential (necessary!) to ensure that a nexus exists of any proposed agricultural development or use to agricultural production (22.32.021, -022, -023. -024, -025, -026, -028, -115, 22.62.060, 22.130.030).

Without this language, if an owner does sell off legal lots then those lots only get the PPU farmhouse and IG homes if the purchaser can show such development is "necessary for" the production of agriculture.

This would help preclude hobby farms or estates, and maintain active, affirmative agricultural production. It also ensures that any proposed commercial processing facility is truly an accessory structure to the agricultural production on that farm.

RECOMMENDATION: Retain Commission staff's inclusion of the "necessary for" and "necessary to" language in sections 22.32.021, -022, -023. -024, -025, -026, -028, -115, 22.62.060, 22.130.030, and any other similar statements throughout the IP.

3. Include strong, objective standards to implement policies BIO-20 and -24 to guide all proposed encroachment into Environmentally Sensitive Habitat Area buffers.

In section 22.64.050 of the draft IP, there are currently no actual objective standards to implement the policies and guide proposed development that would encroach upon an ESHA buffer or that would impact it. The significant loopholes created by the Marin County LUP for the 100-foot ESHA buffer need to be limited, otherwise developers will in most cases go for a buffer exception

RECOMMENDATION:

We reaffirm our thanks that you deleted “significant” impacts to ESHA as the standard in 22.64.050A.1.d and request that you keep it that way.

Add language to 22.64.050A.1 stating that,

- 1) the proposed development may be modified by the Director in order to avoid ESHA Buffer encroachment,
- 2) buffer exceptions will only be allowed for that zoning district’s PPU,
- 3) only the absolute minimum ESHA Buffer exception will be allowed, and
- 4) the burden is on the applicant to present clear and convincing findings of need for, and lack of impact from, proposed buffer reduction.

In addition, please consider utilizing language from the San Luis Obispo IP – with the exception of the “significant impacts” standard - that could be included into Marin’s IP, including the following:

- 1) SLO IP Section 23.07.170.a that lists the application contents alternatives analysis before allowing development as the "least damaging alternative"; and their exception for the purpose of avoiding a taking -- again, just as examples.
- 2) SLO IP Section 23.07.170.d Alternatives Analysis for development of new, expanded, or reconstructed roads, bridges, etc.
- 3) SLO IP Section 23.07.170.e(2) Development in ESHA to Avoid a Takings
- 4) SLO IP Section 23.07.170.e(4) Steelhead Stream Protections and No Net Loss policy
- 5) SLO IP Section 23.07.172.d(2)(i)-(iii) Wetlands Setback Adjustment – but retain Marin’s minimum 50-foot buffer standard.

4. Maintain a nexus of PPU retail sales to on-site agricultural production.

RECOMMENDATION: Amend IP Section **22.32.027 – Agricultural Retail Sales and Facilities (Coastal)** as follows:

(Coastal) The standards of this Section shall apply to the sale of agricultural products as defined in Section 22.130.030 (“Sale of Agricultural Products”). For Agricultural and Resource-Related Districts outside the Coastal Zone, see Section 22.08.040.F.

The sale of agricultural products is allowed as a Principal Permitted Use in the C-APZ zoning district provided it meets all of the following standards:

- (1) the building(s) or structure(s), and outdoor areas used for retail sales do not exceed an aggregate floor area of 500 square feet;
- (2) except as provided in the following paragraph, and with the exception of incidental additives or ingredients, agricultural products to be sold are produced on the same site, or on other agricultural properties located in Marin County that are owned or leased by the sales facility owner or operator;
- (3) the operator of the sales facility is directly involved in the agricultural production on the property on which the sales facility is located; and
- (4) sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the sales facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.

Notwithstanding the foregoing, agricultural products produced within the *foodshed*, which includes all areas of Marin County and the part of southern Sonoma County that are predominantly dairies, cattle ranching, and chicken farms, may be sold as a Principal Permitted Use on a limited basis under these conditions:

- The Coastal Permit shall have appropriate limitations and conditions as to the nature and quantity of off-site products sold and the operation so as to preserve the character and nature of the facility and operation as being primarily engaged in selling products produced on that land, and,
- The Coastal Permit shall only be issued after following the same procedures and adhering to the same standards for the issuance of a use permit for the facility and operation, including a public hearing.

A Conditional Use Permit approval is required for agricultural retail sales which exceeds an aggregate floor area of 500 square feet or for an agricultural retail sales facility of any size which does not comply with one or more of the four standards listed above.

5. Ensure strong, objective standards for grading and terracing in the coastal zone.

RECOMMENDATION:

Incorporate the following objective standards into section **22.64.080.C – Grading and Excavation Standards.**

22.64.080 Water Resources.

C. Grading and Excavation Standards.

2. Preservation of landforms and native vegetation. Grading and terracing shall not take place on slopes greater than 25%. Grading or terracing in an ESHA or ESHA buffer is not allowed without a Coastal Development Permit.

3. Extent and timing of grading. - Grading unrelated to road maintenance on agriculturally-zoned parcels in an amount up to 50 cubic yards at a time does not require a permit. Grading unrelated to road maintenance on agriculturally-zoned parcels in an amount over 50 cubic yards at a time or cumulatively on an annual basis requires a coastal development permit. Grading related to road maintenance on agriculturally-zoned parcels over 50 cubic yards but under 100 cubic yards at a time or cumulatively on an annual basis requires a De Minimis Waiver.

Grading related to road maintenance on agriculturally-zoned parcels over 100 cubic yards at a time or cumulatively on an annual basis requires a Coastal Development Permit. Removing major vegetation for the purpose of expanding agricultural uses on land not previously used in the past 10 years for agriculture requires a coastal development permit. Terracing that involves ESHAs or ESHA buffers, or on slopes greater than 25%, is prohibited. Terracing that does not involve ESHAs, ESHA buffers, or slopes greater than 25% and is less than 20,000 square feet in size on an annual basis requires a De Minimis Waiver application under section 22.68.070. All other terracing requires a coastal development permit. All viticulture requires a coastal development permit.

RECOMMENDATION: Revise the definition as follows:

Grading (coastal) – Any excavation, stripping, cutting, filling, or stockpiling of soil material or earthen matter, or any combination thereof. As used in this Development Code, grading does not including harrowing, aerating, planting, seeding, disking, weeding, fertilizing or other similar routine agricultural cultivation practices for existing, ongoing agricultural practices and operations.

6. Set standards for, and closely monitor, the intensification of water use.

RECOMMENDATION: Amend the follow sections to read as follows:

22.64.140 – Public Facilities and Services

A.1.b.

1)The yield of the well meets the LCP-required sustained pumping rate (minimum 1.5 gallons per minute for a dwelling unit, and an amount commensurate with the scale and scope of the proposed new development for non-dwelling unit development), and that the groundwater usage will not cause an undesirable result.

4) For proposed changes in the intensity of use of surface water impoundments, the applicant must make an affirmative showing from State Water Resources Control Board that the applicant has permission to irrigate from the impoundment for the purpose proposed.

22.130

U. Definitions, “U.” [Note: this definition is taken from the newly enacted California Sustainable Groundwater Management Act]

Undesirable Result. Undesirable result means one or more of the following effects caused by groundwater conditions occurring as a result of a new or expanded surface or ground water use:

1. chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply if continued over the planning and implementation horizon of the proposed development.
2. significant and unreasonable reduction of groundwater storage.
3. significant and unreasonable seawater intrusion.
4. significant and unreasonable degraded water quality.
5. significant and unreasonable land subsidence that substantially interferes with surface land uses.
6. surface water depletions that have significant and unreasonable adverse impacts on beneficial uses of the surface water.

7. Limit scale of single-family residential development to protect neighborhood character and ensure affordable housing for full-time residents.

West Marin struggles with affordable housing. One recent development proposal to build a very large home [5,300 sf main house + 3,600 sf accessory studio and 2nd unit] in an Inverness Park neighborhood that has relatively modest footprint homes [median home size 1,900 sf] has raised alarm bells.

The current LCP's "community character" design review and coastal permit standards (22.57.086I.2 and e.g. 22.56.130I.O.3,) are insufficient to protect neighborhoods from mega-mansion construction – whether on vacant lots or as a tear-downs with larger redevelopment. A cap on residential square footage is needed.

Marin Agricultural Land Trust conservation easements contain a 3,700 sf maximum for the main residence and garage. The *Community Marin* policy recommendations adopted by organizations including Sierra Club Marin Group, Marin Audubon Society, and Marin Conservation League in 2013 included a cap on residential dwelling unit size of 4,000 sf for the home and garage. Thus, the proposed cap is not without support or precedent.

RECOMMENDATION: Add the following language, and revise definitions and tables, as follows:

In all zoning districts except the C-APZ district, the maximum allowable building area for a single family residence, including garage and accessory buildings, shall not exceed 4,500 square feet. In the C-APZ district, the maximum building area of agricultural dwelling units is given by 22.65.040.

Single Family Residential Dwelling Size Limit: The following changes are proposed to the Draft IP to limit the size of all new or reconstructed Single-Family Dwellings at a maximum size of 3500sf for the residence with up to an addition 500sf for a garage:

22.130:

Definition of "Redevelopment, Coastal": At the beginning of the definition, add two sentences that states: "All redevelopment proposed pursuant to this definition, except for the C-APZ district, shall be subject to the overall limit on the size of Single-Family Dwellings of 3,500 square feet plus up to 500 square feet for a garage. In all zoning districts, where an existing residence exceeds 3500 square feet in size, in no case shall any redevelopment be allowed that increases the total square footage by more than 10% of the present lawfully permitted or legally nonconforming size."

Definition of "Single-Family Dwelling": after the existing first sentence of the definition, add the following sentence: With the exception of the C-APZ zoning district, all new Single-Family Dwellings shall be limited to 3,500 square feet plus up to 500 square feet for a garage. This square footage limit applies to proposed Coastal Redevelopment of Single Family Dwellings, subject to minor limitations.

Table 5-1-c: Add a Footnote 11 to the C-ARP, Single-family dwellings column stating: With the exception of the C-APZ zoning district, all new Single-Family Dwellings shall be limited to 3,500 square feet plus up to 500 square feet for a garage. This square footage limit applies to all proposed Coastal Redevelopment of Single Family Dwellings, subject to minor limitations.

Table 5-2-c: Add a Footnote 3 that would apply across the board to the row entitled “Single-family dwellings” that states: With the exception of the C-APZ zoning district, all new Single-Family Dwellings shall be limited to 3,500 square feet plus up to 500 square feet for a garage. This square footage limit applies to all proposed Coastal Redevelopment of Single Family Dwellings, subject to minor limitations.

Table 5-3-c: Add a Footnote 4 (once numbering is corrected to account for existing strikeouts) that would apply across the board to the row entitled “Single-family dwellings” that states: With the exception of the C-APZ zoning district, all new Single-Family Dwellings shall be limited to 3,500 square feet plus up to 500 square feet for a garage. This square footage limit applies to all proposed Coastal Redevelopment of Single Family Dwellings, subject to minor limitations.

8. “Foodshed” definition:

RECOMMENDATION: “Foodshed” will be defined as follows: The foodshed of the Marin coastal zone includes all of Marin County and the portion of southern Sonoma County that is currently not dominated by vineyards and viticulture.

9. Ensure adequate standards for all proposed viticulture development.

RECOMMENDATION:

Include a statement that the Marin Vineyard Erosion and Sediment Control Ordinance, Marin Code Chapter 23.11, does not govern viticulture development in the coastal zone and all coastal permit regulations and standards in the updated LCP are applicable to any viticulture proposal.

In addition, include the following objective standards for all viticulture:

1. **Prohibit conversion** to row crops and viticulture on slopes greater than 25%.
2. **Require Design Review** to ensure that scenic and visual resources are not adversely impacted.
3. **Require a field survey** of nesting bird habitat based on the location and size of the proposed conversion area.
4. **Require an Agricultural Production and Stewardship Plan** if the property owner has not previously engaged in organic viticulture or row crop operations.
5. **Prohibit the use** of any pesticides, herbicides, or rodenticides as part of the intensified agricultural operation.
6. **Require Best Management Practices** and mitigation measures to address sedimentation.

10. Ensure that onshore support facilities for mariculture operations are limited to shellfish lawfully permitted and harvested in Tomales Bay.

RECOMMENDATION: Mariculture – 22.32.105

Amend the last sentence of subsection A. to read:

“Support provision of onshore facilities necessary for allowed shellfish production derived solely from cultivation and harvest in Tomales Bay waters.”

From: [David Lewis](#)
To: Kahn_Kevin@Coastal
Cc: [Liebster, Jack](#)
Subject: RE: Marin LCP comments
Date: Thursday, November 13, 2014 5:22:05 PM

Kevin,

The following are comments and observations to date so you have them in time for consideration before your November 21st deadline. It can be anticipated that additional comments and observations will be formulated between now and the Commission meeting in December in Monterey. Thank you for this opportunity. I look forward to being of assistance going forward.

All the best,

David J. Lewis
Director
UCCE Marin
1682 Novato Blvd., Ste. 150B
Novato, CA 94947
415-473-4204
djllewis@ucanr.edu
<http://cemarín.ucanr.edu/>



-
**Comments and suggested edits for the Draft Marin County Local Coastal Program Development
Code received on 10/27/2014**
-

General Comments

- This pre-draft release review process is unclear and lacks full transparency and participation. Who are the “. . . interested stockholders . . .” that received this early draft? How and when were drafts shared to allow for full and broad participation?
- While the track changes and red-line/strike out features employed in the shared draft provide indications of edits and changes made by CCC staff, the overall organization of the revisions and the document made it difficult to fully identify and understand what changes have been made. More time needed to work through the complexity and length of these changes if any meaningful discussion and revision is to take place. One example is the changes to Table 5-1-a on pages 56 and 57 and other sections that make reference to the “. . . performance standards . . .” in the now new section 22.65.040 on page 127. To be able to identify the actual revisions in the draft requires simultaneously turning each page of this

draft and the draft submitted by Marin County in 2013.

- The suggested revisions and edits in this draft setup a return to positions and discussions held by CCC staff at the start of this process. It means repeating the discussions and time spent to foster an increased understanding of the overall role working landscapes and land stewardship have in fulfilling the Coastal Act. Put another way, the suggested revisions and edits erode and even ignore the intent of the Coastal Act to protect agriculture as the approach to protecting the open and connected nature of California's coastline. They also create confusion around, if not contradict, the decisions made by the Commission on May 13, 2014 in its approval of the LUP. Specifically with the decisions regarding the definitions of agriculture, the support of intergenerational homes, and the retail sales and processing of agricultural products in the farmshed.

Specific Comments

- The definition for Agricultural Activities, Ongoing (Coastal) on page 176 should be removed entirely or replaced with either or both the definition of agriculture in the Coastal Act or the California Code of Agriculture. This contradicts and creates unneeded confusion relative to the definitions of Agriculture (coastal) on page 177, Development on pages 143 and 189 and Grading (Coastal) on page 199. Farming row crops, hay, silage and perennial crops is not grading or development. The ability to transition from grazing livestock to another crop and back again is the flexibility required for farms and ranches to be viable. There are currently, just over 400 acres of total row and perennial crop production in Marin. Water availability and climate severely limit the growth of either. However, the definition as written would halt permanently any opportunities for additional production including the entry of new and beginning farmers.
- What is the purpose and intent of the insertion of "...that are customarily accessory and incidental to, in support of, compatible with and necessary for agricultural production..." throughout the document? How is "necessary" determined and by whom? This phrase should be removed and the text be returned to its original language.
- Throughout the document "agricultural use" has been replaced with "agricultural production." What is the intention and rationale for this? It can be interpreted as a return to the approach that only the current existing farming production is the Principally Permitted Use and not the broader definition as established and approved in the LUP. Is this the intention?
- Section 22.65.040.C.1.f.2. and 6. – Retail sales and processing requires the inclusion of elemental items not necessarily produced by the farmer or the farm on which the processing and the sale of the product is taking place. One example is a cheese that blends cow and goat milk. There are no farms in Marin that care for and milk both types of animals on the same farm or on farms owned by the same farmer. Furthermore, there are already certifications and licenses through the Department of Agriculture that regulate the direct sale and retail sale of products and through which verification of the origins of products sold

takes place.

From: [David Lewis](#)
To: [Kahn, Kevin@Coastal](#); [Cave, Nancy@Coastal](#)
Subject: Considerations for Marin's LCP IP
Date: Monday, March 23, 2015 4:26:15 PM
Attachments: [image001.png](#)

Hello Kevin and Nancy,

I want to thank you both for participating on the conference call with Marin community members to review potential language in Marin's LCP Implementation Plan. I am resubmitting the following comments. With the exception of one addition about farm tours these are the same as I shared with Kevin in December of 2014 in review of the draft IP shared by Kevin. I look forward to the final staff draft to be released in advance of the April Commission meeting and hope these help in crafting that draft to meet all of the intentions of the Coastal Act. Thank you in advance for your consideration of these points.

Respectfully,

David Lewis
Director
UC Cooperative Extension Marin
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Novato, CA 94947
415-473-4204
djllewis@ucanr.edu
<http://cemarín.ucanr.edu/>



**Comments and suggested edits for the Draft Marin County Local Coastal Program Development
Code received on 10/27/2014**

General Comments

- This pre-draft release review process is unclear and lacks full transparency and participation. Who are the "... interested stockholders ..." that received this early draft? How and when were drafts shared to allow for full and broad participation?
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changes to Table 5-1-a on pages 56 and 57 and other sections that make reference to the “. . . performance standards . . .” in the now new section 22.65.040 on page 127. To be able to identify the actual revisions in the draft requires simultaneously turning each page of this draft and the draft submitted by Marin County in 2013.

- The suggested revisions and edits in this draft setup a return to positions and discussions held by CCC staff at the start of this process. It means repeating the discussions and time spent to foster an increased understanding of the overall role working landscapes and land stewardship have in fulfilling the Coastal Act. Put another way, the suggested revisions and edits erode and even ignore the intent of the Coastal Act to protect agriculture as the approach to protecting the open and connected nature of California’ coastline. They also create confusion around, if not contradict, the decisions made by the Commission on May 13, 2014 in its approval of the LUP. Specifically with the decisions regarding the definitions of agriculture, the support of intergenerational homes, and the retails sales and processing of agricultural products in the farmshed.

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- The definition for Agricultural Activities, Ongoing (Coastal) on page 176 should be removed entirely or replaced with either or both the definition of agriculture in the Coastal Act or the California Code of Agriculture. As the draft is written, it contradicts and creates unneeded confusion relative to the definitions of Agriculture (coastal) on page 177, Development on pages 143 and 189 and Grading (Coastal) on page 199. Farming row crops, hay, silage and perennial crops is not grading or development. The ability to transition from grazing livestock to another crop and back again is the flexibility required for farms and ranches to be viable. There are currently, just over 400 acres of total row and perennial crop production in Marin. Water availability and climate severely limit the growth of either. However, the definition as written would halt permanently any opportunities for additional production including the entry of new and beginning farmers.
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on the same farm or on farms owned by the same farmer. Furthermore, there are already certifications and licenses through the Department of Agriculture that regulate the direct sale and retail sale of products and through which verification of the origins of products sold takes place.

- Farmers and ranchers that lead educational tours should have the opportunity to recover costs for their time and support of such activities. These tours are instrumental in building a strong local food system by increasing the broader community's understanding of farming and ranching and creating opportunities to build relationships across the community around shared environmental stewardship goals and values. The time invested by a hosting farmer and rancher is well spent and has a cost because it is time away from other activities related to production and general operation management. Language around farm tours should allow for farmers and ranchers leading educational tours and being able to receive compensation for their time spent.

From: [Liebster, Jack](#)
To: ["Judy Teichman"](#); [Kahn, Kevin@Coastal](#); [Cave, Nancy@Coastal](#); [Frederick Smith](#); [Lisa Bush](#); [Crosse, Liza](#); [Nona Dennis](#); [Sam Dolcini](#); [Sally Gale](#); [Jana Haehl](#); [Wade Holland](#); [Robert Johnston](#); [David Lewis](#); [Kevin Lunny](#); [Bridger Mitchell](#); [Kate Powers](#); [Susan Stompe](#); [Jeff Stump](#); [Ann Thomas](#); [Amy Trainer](#); [Donna Yamagata](#); [George Clyde](#); [Gordon Bennett](#); [Peter MARTINELLI](#); [Grossi Dominic](#); [carrollfk@comcast.net](#); [Albert Straus](#); [MCL](#)
Cc: [Kinsey, Steven](#); [Crawford, Brian](#); [Lai, Thomas](#); [Lester, Charles@Coastal](#); [Tejirian, Jeremy](#); [Carl, Dan@Coastal](#); [Armstrong, Lauren](#); [Gimmler, Christine](#); [Drumm, Kristin](#); [VanBelleghem, Bridgit](#); [Westhoff, Alex](#)
Subject: Alternative language - Ongoing Agricultural Activities
Date: Sunday, March 08, 2015 11:41:16 PM
Attachments: [15.3.8a Alternative Text for Ongoing agricultural activities and Grading.docx](#)

Hello friends,

Nancy Cave requested that I provide language that the County might consider as a viable alternative the both the Board-approved Implementation Plan Amendment (IPA) and the CCC staff's previously circulated draft suggested Modifications (mIPA). In putting this together, we are indebted to Judy Teichman and Sally Gale for initiating and fostering this round of discussions, and to every one of you, who contributed collegially and constructively to the effort to find common ground.

The key alternative language is included below and in the attached document. That attachment also includes the CCC staff's draft suggested modifications.

Thanks to each of you for your knowledge, ideas, collaboration and patience.

All the Best

Jack

To date, the Coastal Commission has generally not regulated agricultural use, including changes in cropping, cultivation, and management patterns as development requiring a Coastal Permit. Regardless of this history, however, Commission staff have participated in a dialogue of a diverse group of Marin County LCPA stakeholders organized by the Marin Conservation League Agricultural Land Use Committee specifically designed to cut across the full range of views on this matter. That effort has yielded substantial insight into the distinct concerns of each group relative to the requirements of the Coastal Act.

More importantly, that effort has identified possible common ground among the diverse interests. The following proposed revisions to MIPA (revisions only in ~~cross-out~~/underline) seek to integrate the different concerns voiced by the MCL participants, and find a common ground that assures the protection of Marin's agricultural economy through continued and renewed agricultural use while requiring careful regulation of specific development that could have the potential for impact to coastal resources.

22.68.030 – Coastal Permit Required~~ment~~ for Development...

-

A.3. Ongoing agricultural activities and ~~The~~ harvesting of major vegetation for agricultural purposes is not development, and therefore does not require a permit. The following activities shall ~~requires~~ a coastal permit:

1. Terracing of more than 1 acre of land for agricultural production;

2. Preparation or planting of more than 5 acres of land for viticulture;
3. Installation or extension of irrigation systems on more than 5 acres of land; and
4. Grading or removing ~~major vegetation~~ natural vegetation designated as environmentally sensitive habitat areas (ESHA) for the purpose of expanding agricultural uses on land not previously used for agriculture. ~~requires a coastal permit.~~

Definitions Article VIII, Chapter 22.130:

Agricultural Activities, Ongoing (Coastal). Ongoing agricultural activities include continued, new or renewed agricultural use, repair and maintenance activities*, exempt development, Existing legally established agricultural uses which have not been expanded and have not been discontinued for more than 10 years. Conversion of grazing to crop production or any other new activity involving grading or a change in the intensity of use of land or water is not an ongoing agricultural activity but rather constitutes new development requiring a coastal permit unless such development is categorically excluded by a Coastal Commission approved Categorical Exclusion Order, and placement of material to protect water quality.

Ongoing agricultural activities do not include:

1. Terracing of more than 1 acre of land for agricultural production;
2. Preparation or planting of more than 5 acres of land for viticulture;
3. Installation or extension of irrigation systems on more than 5 acres of land.

*repair and maintenance is in the Definitions section under “r”:

Repair and Maintenance (coastal). Development which does not result in an addition to, enlargement or expansion of the object of the repair and maintenance ...

Grading (coastal) – Any excavation, stripping, cutting, filling, or stockpiling of soil material, or any combination thereof that exceeds 150 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 “Agricultural Activities, Ongoing”).

From: Judy Teichman [mailto:judyteichman1@gmail.com]

Sent: Wednesday, January 28, 2015 5:24 PM

To: kevin.kahn@coastal.ca.gov

Cc: Cave, Nancy@Coastal; Frederick Smith; Lisa Bush; Crosse, Liza; Nona Dennis; Sam Dolcini; Sally Gale; Jana Haehl; Wade Holland; Robert Johnston; David Lewis; Liebster, Jack; Kevin Lunny; Bridger Mitchell; Kate Powers; Susan Stompe; Jeff Stump; Ann Thomas; Amy Trainer; Donna Yamagata; George Clyde; Gordon Bennett; Peter MARTINELLI; Grossi Dominic; carrollfk@comcast.net; Albert Straus; MCL

Subject: MCL - Work Session - Marin LCP Update - Meeting on Friday, January 30, 9 - 11 a.m ...

Email Disclaimer: <http://www.marincounty.org/main/disclaimers>

15.3.8 **Alternative Text for Ongoing agricultural activities and Grading.**

CDA LCPA Team

To date, the Coastal Commission has generally not regulated agricultural use, including changes in cropping, cultivation, and management patterns as development requiring a Coastal Permit. Regardless of this history, however, Commission staff have participated in a dialogue of a diverse group of Marin County LCPA stakeholders organized by the Marin Conservation League Agricultural Land Use Committee specifically designed to cut across the full range of views on this matter. That effort has yielded substantial insight into the distinct concerns of each group relative to the requirements of the Coastal Act.

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22.68.030 – Coastal Permit Requiredment for Development...

A.3. Ongoing agricultural activities and ~~The harvesting of major vegetation for agricultural purposes is not development, and therefore does not require a permit. The following activities shall requires-a coastal permit:~~

1. Terracing of more than 1 acre of land for agricultural production;
2. Preparation or planting of more than 5 acres of land for viticulture;
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Ongoing agricultural activities do not include:

1. Terracing of more than 1 acre of land for agricultural production;
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Repair and Maintenance (coastal). Development which does not result in an addition to, enlargement or expansion of the object of the repair and maintenance ...

Grading (coastal) – Any excavation, stripping, cutting, filling, or stockpiling of soil material, or any combination thereof that exceeds 150 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 “Agricultural Activities, Ongoing”).

Current Draft Text of CCC Suggested Modifications.

The following excerpts of the draft MIPA show ~~cross-out~~ and underline changes proposed to the Marin BOS-approved text of the LPCA:

22.68.030 – Coastal Permit Requiredment for Development

A Coastal Permit is required for proposed development in the Coastal Zone ~~proposed to be undertaken by any person, including~~ a private entity or a state or local agency unless the development is categorically excluded (per 22.68.040), exempt (per 22.68.050), or qualifies for a De Minimis Waiver (per 22.68.070).

For the purposes of this Chapter, Development ~~is~~ defined in Article VIII of this Development Code, means:

On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973(commencing with Section 4511 of the Public Resources Code).

As used in this section, "structure" includes any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Development ~~and~~ is interpreted to include installation of water or sewage disposal systems, the closure of County-managed public accessways, changes in public access to the water including parking availability, and the significant alteration of landforms. Significant alteration of land forms ~~entails~~ includes the removal or placement of vegetation on a beach, wetland, or sand dune, or within 100 feet of the edge of a coastal bluff, stream, or in areas of natural vegetation designated as environmentally sensitive habitat areas (ESHA).

The harvesting of major vegetation for agricultural purposes is not development, and therefore does not require a permit. Grading or removing major vegetation for the purpose of expanding agricultural uses on land not previously used for agriculture requires a coastal permit. Ongoing agricultural operations including cultivation, crop and animal management and grazing are not considered to be development or a change in the density or intensity of the use of land. For the purposes of this Chapter, “ongoing agricultural operations are those which exist presently or

~~historically, and do not entail new encroachment within 100 feet of the edge of a wetland, stream, or riparian vegetation.~~ For agricultural uses, a “change in the intensity of use of water, or access thereto” ~~means~~ includes the development of new water sources such as construction of a new or expanded well or expansion of a surface impoundment.
{BOS app. 10/2/12, 1/15/2013}

Development Code Definitions Article VIII, Chapter 22.130:

Agricultural Activities, Ongoing (Coastal). Existing legally established agricultural uses which have not been expanded and have not been discontinued for more than 10 years. Conversion of grazing to crop production or any other new activity involving grading or a change in the intensity of use of land or water is not an ongoing agricultural activity but rather constitutes new development requiring a coastal permit unless such development is categorically excluded by a Coastal Commission approved Categorical Exclusion Order.

Grading (coastal) – Any excavation, stripping, cutting, filling, or stockpiling of soil material, or any combination thereof ~~that exceeds 150 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 “Agricultural Activities, Ongoing”).

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

November 28, 2014

Kevin Kahn
Supervising Coastal Planner, LCP Planning
Central Coast District Office
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

RE: Marin County Local Coastal Program

Dear Mr. Kahn,

I write with regard to two sections of the draft revisions by the Coastal Commission Staff that were widely circulated last month: §22.32.026 and §22.32.027 which deal with smaller agricultural processing and retail sales operations.

By way of background, the East Shore Planning Group, a California not-for-profit corporation formed in 1984 (“ESPG”), has a membership of about 90 homeowners, tenants and owners of residential and commercial properties in the vicinity of Marshall and along the east shore of Tomales Bay, which is in the unincorporated area of Marin County and is in the Coastal Zone. The ESPG is the primary local organization involved with issues of development in the area, and we have been an active participant with Marin County in the process of amending the Local Coastal Program since it began.

The East Shore Planning Group supports local agriculture and the efforts to reduce the costs and uncertainties of burdensome permitting requirements for small agricultural processing and retail sales facilities. At the same time, ESPG has always been concerned about the effects of commercial activities that can create traffic, parking and safety issues and that could affect the character of our community and can ruin the coastal experience for visitors and residents alike.

The retail commercialization of Highway One in our area is also a threat to the future of our agricultural lands. Last month an existing shellfish farm-stand operation purchased a nearby APZ-60 agriculturally zoned parcel (AP 119-060-32), apparently to support its expanding retail sales operation. Along the east shore of Tomales Bay, retail commercialization and associated processing facilities on agriculturally zoned parcels may pose a greater threat to the future of agricultural lands than the pressures to construct “McMansions”.

The provisions in the proposed Development Code as adopted by the Board of Supervisors last year regarding processing and retail sales of agricultural products, §22.32.026 and §22.32.027, are the result of years of proceedings before the Marin County Planning

Commission and Board of Supervisors. East Shore Planning Group was an active participant, as were representatives of the agricultural community.

We support the provisions of §22.32.026 and §22.32.027 as approved by the Board of Supervisors. We also support the minor revisions in the draft proposed by the Coastal Commission staff. Either version will be satisfactory to our organization. (For convenient reference, a copy of the draft revisions is included at the end of this letter.)

But, we would strongly oppose any further liberalization of those provisions that could create loopholes whereby processing and retail sales facilities, unrelated to the primary agricultural activities on the land, could be allowed as Principal Permitted Uses, without the protections afforded by public hearings and possible appeal to the Coastal Commission.

That said, we note the Commission's change to the LUP as approved by the Board of Supervisors, adding the notion of the "farmshed" to Principal Permitted Uses for retail sales, Section C-AG-2(6), on C-APZ properties. In light of this unexpected development, and in response to other comments by the agricultural community, we would ask that the staff consider some additional revisions to the proposed provisions of the Development Code to address those concerns, without undercutting the limitations that had been previously agreed and approved by the Board of Supervisors.

Specifically, with respect to the language in both sections §22.32.026 and §22.32.027, we would suggest that the phrase "...or on other agricultural properties located in Marin County that are owned or leased by the ..." be amended to read "... or on other agricultural properties located in Marin County or Sonoma County that are owned or leased by the ...". This addresses the new "farmshed" provision in the LUP.

In addition, the processing facilities section §22.32.026 has an exception to the requirement that the agricultural products be produced on the same site for "... incidental additives or ingredients ...". In light of comments from the agricultural community, we believe it would be appropriate to add a similar exception to the retail sales section, so it would read:

"... (2) with the exception of incidental additives or ingredients, agricultural products to be sold are produced on the same site, ..."

Lastly, we believe there is a mistake in the retail sales §22.32.027 where it refers to the properties that "... are owned or leased by the processing facility owner or operator ...". We believe that the provision should refer to lands that are owned or leased by the retail sales facility owner or operator, not the processing facility owner or operator.

Thus, with those changes and those in the draft, the clause would read:

(2) with the exception of incidental additives or ingredients, agricultural products to be sold are produced on the same site, or on other agricultural properties located in Marin County or Sonoma County that are owned or leased by the ~~processing~~ retail sales facility owner or operator;

To conform, similar changes should be made to §22.65.040(C)(1)(f)(2) and (6) at p. 129 of the draft.

Thank you for considering these views.

Sincerely

Lori Kyle

Lori Kyle, President

CC: Jack Liebster
Charles Lester

Standard Note: This letter has been authorized by the ESPG Board of Directors, but has not been presented to or approved by our membership.

22.32.026 – Agricultural Processing Uses (Coastal)

The standards of this Section shall apply to agricultural processing defined in Section 22.130.030 ("Agricultural Processing").

For Agricultural and Resource-Related Districts outside the Coastal Zone, see Section 22.08.040.E.

Agricultural processing shall be accessory and incidental to, in support of, compatible with, and necessary for agricultural production. Agricultural processing is allowed as a Principal Permitted Use in the C-APZ zoning district provided it meets all of the standards set forth in Section 22.65.040, including the following standards: (1) the building(s) or structure(s) used for processing activities do not exceed an aggregate floor area of 5,000 square feet; (2) with the exception of incidental additives or ingredients, agricultural products to be processed are produced on the same site, or on other agricultural properties located in Marin County that are owned or leased by the processing facility owner or operator; (3) the operator of the processing facility is actively and directly involved-engaged in the agricultural production on the property on which the processing facility is located; and (4) sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the processing facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.

Use Permit approval is required for an agricultural processing use which exceeds an aggregate floor area of 5,000 square feet or for an agricultural processing use of any size that does not comply with one or more of the four standards listed above.

B. Coastal Permit and ~~Design Review~~ for a processing facility.

1. Any processing facility, regardless of size, shall require a Coastal Permit.
2. ~~Any processing facility shall require Design Review, unless it satisfies all the following conditions:~~
 - ~~(a) It qualifies as a Principal Permitted Use;~~
 - ~~(b) It will be developed and operated wholly within an existing permitted, legal nonconforming, or categorically excluded structure; and~~
 - ~~(c) Its development will not include any significant alteration of the exterior appearance of the existing structure.~~

[BOS app. 10/2/2012, 2/26/2013]

22.32.027 – Agricultural Retail Sales ~~and~~ Facilities (Coastal)

(Coastal) The standards of this Section shall apply to the sale of agricultural products as defined in Section 22.130.030 ("Sale of Agricultural Products"). For Agricultural and Resource-Related Districts outside the Coastal Zone, see Section 22.08.040.F.

The sale of agricultural products is allowed as a Principal Permitted Use in the C-APZ zoning district provided it meets all of the ~~following standards~~ development standards set forth in Section 22.65.040, including the following: (1) the building(s) or structure(s), or outdoor areas used for retail sales do not exceed an aggregate floor area of 500 square feet; (2) agricultural products to be sold are produced on the same site, or on other agricultural properties located in Marin County that are owned or leased by the processing facility owner or operator; (3) the operator of the sales facility is actively and directly involved-engaged in the agricultural production on the property on which the sales facility is located; and (4) sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the sales facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.

Use Permit approval is required for agricultural retail sales which exceeds an aggregate floor area of 500 square feet or for an agricultural retail sales facility of any size which does not comply with one or more of the four standards listed above.

[BOS app. 10/2/2012, 2/26/2013]

LAW OFFICES
TESLER & SANDMANN

PETER B. SANDMANN

PAULINE H. TESLER
CERTIFIED FAMILY LAW SPECIALIST
STATE BAR OF CALIFORNIA

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FEB 27 2015

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

PLEASE REPLY TO:

→ MILL VALLEY OFFICE

SAN FRANCISCO OFFICE

February 23, 2015

Charles Lester, Executive Director
California Coastal Commission
45 Fremont St #2000
San Francisco, CA 94105

Re: Settlement Agreement, March 16, 1994,
Kelly v. The California Coastal Commission
Marin County Superior Court No. 152988

Dear Mr. Lester:

As you surely know, the Marin County Local Coastal Program ("LCP") is being revised and updated, and the staff of the Coastal Commission have been making changes to the documents submitted by the County in preparation for the Commission's review of the County's proposed amendments to the existing LCP. I am writing with regard to one specific aspect of the changes that the Commission staff have made to the revised LCP as proposed by the County.

By way of background, the above-referenced legal action concerned, in part, an appeal to the Coastal Commission from the grant by Marin County of a permit for installation of a rock revetment seawall on the ocean beach in the Seadrift development, located in Stinson Beach, California. Pursuant to the above-referenced Settlement Agreement, the Coastal Commission approved the permit for the seawall, as set forth in Exhibit "J" to the Settlement Agreement. As issued, that Permit provided specifically that: "These terms and conditions shall be perpetual, and it is the intent of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions." See Permit No. A-1-MAR-87-235-A, issued August 31, 1994. The "subject property" specifically included all of the Seadrift development.

Since that time, the seawall has been maintained at substantial expense as required by the terms of the Permit, and the Association has regularly submitted reports to the Commission documenting those maintenance activities, including reports regarding replacement/relocation of rocks and written evaluations of the integrity of the seawall by marine engineers. Over the same period of time, a number of new homes as well as the renovation of a number of existing homes in the Seadrift development, both on the ocean shoreline and within the interior of the

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Exhibit 5 (Correspondence)
LCP-2-MAR-13-0224-1 Part B (Marin IP Update)
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Charles Lester, Executive Director

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subdivision have been approved at both the County and Commission level. At no time has there been any suggestion that the seawall was not an authorized protective device which could be relied upon for new or major renovation development projects. Any suggestion that the Permit was only intended to benefit development projects that existed at the time that the Permit was issued in 1994 is belied by the history of approvals since that time.

At the Coastal Commission meeting on May 15, 2014, the Commission considered the Land Use Plan ("LUP") portion of the Marin County LCP that had previously been approved by the Marin County Board of Supervisors after public hearings. The County's LUP contained a specific reference to the Seadrift seawall – see section C-EH-19 Maintenance Needs for the Shoreline Protective Device at Seadrift – which essentially repeated the relevant provisions of the August 31, 1994, Permit. Another section of the LUP generally provided that applications for coastal permits for shoreline development projects could not rely upon the existence of shoreline protective devices, but section C-EH-13 did provide standards for the construction or reconstruction of shoreline protective devices in appropriate cases. The Seadrift Association representatives had read that section, C-EH-13, along with section C-EH-19 as acknowledging both the existence of the seawall at Seadrift and the right of property owners at Seadrift, pursuant to the Settlement Agreement, to continue to rely on the existence of the seawall for purposes of permitting ongoing development projects within Seadrift. As stated above, in the intervening years, a number of new homes have been constructed along the ocean shoreline in Seadrift, and during that time the Coastal Commission staff have not objected to or commented about those development projects on the ground that such projects could not rely upon the existence and efficacy of the seawall.

Early this month, I and other representatives of Seadrift had occasion to meet with Nancy Cave, Shannon Fiala and Kevin Kahn at the Coastal Commission office in San Francisco. The purpose of that meeting was to discuss proposed Marin County LCP implementation language that has been proposed by the Coastal Commission staff which, in our view, would constitute an unlawful taking of private property rights within Seadrift (and elsewhere). During that meeting, we were informed that the Coastal Commission staff is taking the position that while the above-referenced Settlement Agreement authorizes the existence of the seawall at Seadrift, new development projects may not rely upon the existence of that seawall in seeking approval of coastal development permits. More specifically, we were told that the Coastal Commission staff takes the position that the seawall was only approved to protect development projects that existed at the time of the Settlement Agreement in 1994, and that subsequent development projects at Seadrift are not entitled to rely upon the existence of the seawall as a shoreline protective device, and must seek approval as if no shoreline protective device existed.

Charles Lester, Executive Director

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There is nothing in the Settlement Agreement, the seawall Permit, or in the course of the negotiations leading up to those documents that would in any manner support the position that the Coastal Commission staff is now trying to impose with respect to this matter. In fact, the language of the Permit itself makes it clear that the Permit, and the seawall which it approved, were intended to be "perpetual." Indeed, the only way the Permit provided for its expiration was if "development [of the seawall] is not commenced" within two years of approval, which in the case of the Seadrift seawall was impossible since the seawall had been constructed pursuant to an emergency permit during the 1982-83 storms and had existed ever since that time. The Commission's position is directly contrary to the language of the Permit itself, cited above, that bound the Permit to "all future owners and possessors of the subject property to the terms and conditions." There is no carve out or exception from "all future owners and possessors" that would exclude undeveloped or underdeveloped properties from the benefits of the Permit. Thus, the attempt by the Commission staff to re-write the Permit cannot succeed and is in direct violation of the Court's Judgment which incorporated the Settlement Agreement along with the Permit itself.

One example of the Commission staff's attempt to circumvent the terms of the settlement agreement is section C-EH-13 of the Land Use Plan, the relevant sections of which were drafted by the Commission staff who substantially changed the language that had been drafted by Marin County planners. That section attempts to impose new restrictions on existing seawalls that were not proposed by the County, and which include a sunset provision that an existing shoreline protective device must be removed when the "existing structure that is protected by such a device . . . is no longer present . . . [or] is redeveloped." Similarly, Commission staff re-wrote section C-EH-19 which specifically refers to the Seadrift seawall and which the County had drafted to track the terms of the Seadrift seawall Permit. The Commission staff replaced the County's language with the instruction that inquiries regarding maintenance of the Seadrift seawall should be referred to the Coastal Commission, in direct contravention of the Court's Judgment that ordinary maintenance did not, and does not, require Commission approval. Specifically, the Permit provides:

By signing this permit, the applicants agree to be responsible for future maintenance of the rock revetment which is the subject of this permit. Such future maintenance shall include both "ordinary maintenance" for which no coastal development permit shall be required and "extraordinary maintenance" for which a coastal development permit may be required, pursuant to provisions of the certified Marin County Local Coastal Program.

Charles Lester, Executive Director

Re: Settlement Agreement, March 16, 1994,
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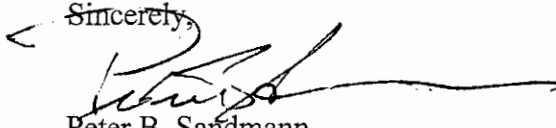
February 23, 2015

Page 4

Clearly the Commission staff are attempting to rewrite the Permit granted pursuant to the 1994 Settlement Agreement, and to set up a future in which the Commission will be able to force the seawall to be removed. In furtherance of this effort, the Commission staff has drafted language throughout the LUP, and has drafted corresponding implementation language that prohibits reliance upon any existing shoreline protective device in seeking approval for any new development or substantial reconstruction of any existing structures. Thus, even though the Permit for the Seadrift seawall requires the ocean front property owners at Seadrift to maintain that seawall, any such property owner who proposes to build on an undeveloped ocean front lot, or who proposes to substantially renovate an existing home on such a lot, would be prohibited from relying on the efficacy or existence of the seawall for purposes of securing a permit.

I urge you to instruct your staff to restore the language in the original County draft of the LCP's implementation language, and confirm the right of the Seadrift property owners to continue to rely upon the existence of the Seadrift seawall for future development. That language, and any other provision that references shoreline protective devices should also make it clear that there will not be any effort on the part of the County or the Coastal Commission to require Seadrift to remove the seawall at any time in the future. I look forward to receiving confirmation that the proposed implementation plan language has been modified accordingly. Thank you for your immediate attention to this matter.

Sincerely,



Peter B. Sandmann

PBS:me

cc: Nancy Cave
Kevin Kahn
Tom Lai
Jack Liebster

KK

LAW OFFICES
TESLER & SANDMANN

PETER B. SANDMANN

PLEASE REPLY TO:

PAULINE H. TESLER
CERTIFIED FAMILY LAW SPECIALIST
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→ MILL VALLEY OFFICE
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March 6, 2015

Nancy Cave, District Manager
North Central Coast District
California Coastal Commission
45 Fremont St #2000
San Francisco, CA 94105

Kevin Kahn, Supervising Coastal Planner
North Central Coast District
California Coastal Commission
Cooperhouse Shopping Center
725 Front St, No. 300
Santa Cruz, CA 95060

Re: Marin County Local Coastal Program amendments
Proposed amendments to Marin County Development Code

Dear Ms. Cave and Mr. Kahn:

I am writing to follow up regarding our meeting of February 5, 2015. At that meeting, I and other representatives of the Seadrift Association, Stinson Beach, California, expressed concerns about proposed revisions to Section 22.64.060 of the Marin County Development Code which have been proposed by staff of the California Coastal Commission. It was, and remains, our belief that the proposed language would, if implemented, have the effect of precluding all future development and redevelopment of shoreline properties in Seadrift, and potentially of all other properties in the entire Seadrift community, whether on the Pacific Ocean shoreline or inland on the Seadrift sandspit.

We are aware that the proposed language is intended to implement the Marin County Land Use Plan, as proposed by the County and as revised by the Coastal Commission staff, and as so revised, adopted by the Commission at its meeting on May 15, 2014. However, we believe, as I will demonstrate throughout the rest of this letter, that rather than setting forth a county-wide standard for addressing coastal hazards that all subsequent development applicants can follow in a uniform fashion, the proposed language is instead so inconsistent, ill-defined, and vague in its apparent effort to apply the best available science on hazards such as sea level rise, that it would in effect require each individual applicant as well as each individual planner who reviews an application, to make up their own coastal hazard standards - resulting in the opposite of the originally intended effect. The County's proposals were already subject to attack for being arbitrary and capricious, and for constituting an unlawful taking depending upon how they would eventually be applied. But the Coastal Commission staff's last minute revisions to the County's

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California Coastal Commission
March 6, 2015
Page 2

LUP proposals in May of 2014, coupled with the Commission staff's recent draft of Development Code section 22.64.060 (along with proposed revised sections 22.68.050 and 22.68.060), will clearly result in an unlawful taking of the rights of property owners which is apparently unintended but is nevertheless inescapable.

SEADRIFT

Before I address the substantive issues regarding these matters, I think it is important for you to have a clear understanding of the existing Seadrift development, which is clearly lacking among some of the drafters. Seadrift is a gated, residential development located on a sandspit extending between the Pacific Ocean and the Bolinas Lagoon. The development consists of approximately 325 lots which were subdivided over a number of years beginning in the late 1940's, the majority of which have been developed with single family homes. Approximately 100 lots are along the Pacific Ocean beachfront, protected by a rock revetment seawall which is the subject of a Coastal Commission permit. The building setback line on all of those lots requires that any structures be set back inland from the beach and the seawall, well landward of the mean high tide line, and there are in fact no structures seaward of that setback line. There are 19 lots at the far end of the sandspit which face the Bolinas Lagoon side of the sandspit, and are supported by a steel bulkhead that may be as much as 20 feet or more in height above the water (depending upon the tides). The remaining lots in Seadrift are arrayed within the central core of the sandspit around a man-made lagoon (the "Seadrift Lagoon"). The Seadrift Lagoon is defined by a low bulkhead around its mile or so length. It is not tidal; water enters and leaves the Lagoon through controlled sluice pipes from and into the Bolinas Lagoon. The minimum height of the lowest structures in Seadrift are ten feet or more above sea level, and in many cases much higher.

OVER BROAD SCOPE OF PROPOSED CODE SECTION

There are numerous problems and issues with the proposed development code sections. The sections suffer from lack of clarity in the first instance, and in general, the language of the proposals is so over broad that it unintentionally encompasses every property in the coastal zone. Focusing first on proposed section 22.64.060 relating to Environmental Hazards, and specifically subsection A1 calling for permit applications to include an "environmental hazards report," the section starts by stating that, among other things, it covers all coastal permits in areas "potentially subject to . . . tsunami runup, . . . ocean waves, storms . . ." It also covers those areas "potentially inundated by accelerated sea level rise," without identifying what is meant by "accelerated" as opposed to steady or gradual. Since the section states that the relevant period of time to be considered regarding such hazards is 100 years, and considering that the consensus among scientists is that there is no way to forecast with any confidence the amount of sea level rise that will occur during the next decades, let alone the next 100 years (the estimates run from less than 10 inches to well over six feet at the extreme ends of probability), the word "potential" in this context will clearly result in treating virtually all Marin properties in the coastal zone as

Nancy Cave
Kevin Kahn
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March 6, 2015
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being subject to environmental hazards regardless of their location and circumstances. All such development would therefore fall within the mandate of the proposed section and be required to submit an engineering report addressing all of the listed environmental hazards.

ENGINEERING REPORT TO ADDRESS VAGUE STANDARDS

The proposed section then goes on to require an engineering report “describing the extent of potential environmental hazards on the site and recommended construction, siting, and other techniques to minimize possible environmental hazards.” (Emphasis added.) Since the proposed section lists the environmental hazards that are to be considered, including such things as earthquakes, tsunamis, “ocean waves, storms,” “accelerated sea level rise” and the like, it is not open to the engineering report to minimize or disregard any of those potential hazards regardless of anticipated severity, but rather the report must address the potential hazards regardless of likelihood, and the building plans must then address those potential hazards in all respects. This is a far more onerous requirement than is warranted by current scientific opinion, especially in the case of sea level rise where potential outcomes at the far extremes are considered to have exceptionally low probabilities of occurrence. The requirement provides no standard against which planners can evaluate the engineering report, meaning that application of the proposed section by different planners and eventually by Commission staff will inevitably result in arbitrary and capricious determinations regarding whether to grant or deny a development permit. Without specific standards, such as requiring developments in earthquake prone areas to meet “seismic safety standards of the Alquist-Priolo Act,” (as called for in proposed section 22.68.060B7), each proposed development project will be subject to differing determinations depending upon the identity of the assigned planner or staff member.

PROJECTS MUST ADDRESS SEA LEVEL RISE THAT “MIGHT” OCCUR

The section next compounds the lack of measurable standards by requiring “an evaluation of potential changes to the hazard due to sea level rise that might occur” during the next 100 years. Note that this sentence requires an evaluation of potential changes to the “hazard” not to the building site, which makes no sense. It also requires that the evaluation address sea level rise that “might” occur, regardless of how unlikely it may be. This language is clearly going to create a road block that will have the effect of precluding any new development or major redevelopment anywhere in the lower-lying areas along the Marin County coast since, again, it is widely accepted that there is no way to determine the extent of anticipated sea level rise, with a range from as low as ten inches in the next 100 years to the most pessimistic forecast that predicts that virtually all of the Marin County coast will be inundated within the next 50 to 100 years. If the requirement truly is that a proposed development must address sea level rise that “might” occur, however unlikely, no such development will be approved. Such a requirement cannot be justified by any rational approach to these issues.

PROJECT SITES MUST BE SHOWN TO REMAIN STABLE AT ALL TIMES

Next the section specifically requires that the engineering report “demonstrate that . . . the area of construction is stable for development for a minimum of 100 years.” Since one of the hazards that is specifically listed in the proposed section is “earthquake,” and since the San Andreas Fault extends along the length of the Bolinas Lagoon, this requirement is clearly impossible to be met. The issue here should be that the proposed development will be constructed such that the development itself will be stable, not that the site or area of construction will be stable. In areas that are prone to earthquakes, that hazard is addressed through construction methods as noted above, not by requiring that the ground itself remain immune from seismologic instability.

COASTAL HAZARDS ANALYSIS FOR SHORELINE DEVELOPMENT

The second paragraph in subsection A1 appears to provide for a separate and distinct “coastal hazards analysis” as opposed to the “report” required by the first paragraph of the subsection. The coastal hazards analysis is only for “any new shoreline development, including development on vacant/undeveloped lots,” but also for “additions to existing structures [presumably regardless of size], and coastal redevelopment [which is undefined].” (Emphasis added.) Thus, the language in the second paragraph differs from the first paragraph in that the first paragraph states that it applies to all coastal permit applications whereas the second paragraph only applies to shoreline development. As you know, when we met last month, we asked that you tell us the definition of “shoreline” as that term appears in the proposed subsection, and specifically whether “shoreline” is intended to include the 19 lots in Seadrift that face the Bolinas Lagoon rather than the ocean, or even the several hundred lots that are inland on the Seadrift spit, which are separated by interior roads from the ocean and from the Bolinas Lagoon, but which face the interior man-made Seadrift Lagoon. You acknowledged that you did not know the answer to that question, but said that you would let us know. As of yet, we have not received any further information about that important question. It is also the case that the new subsection G in the staff report regarding proposed LUP Policy C-EH-5, as written by Commission staff last May, is also ambiguous with regard to the meaning of “shoreline.” It states that “shoreline development is development at or near the ocean-sand interface and/or at very low lying elevations along the shoreline, generally seaward of bluffs (e.g. such as at Seadrift and Stinson Beach in Marin County), and/or directly at the water’s edge” The report does not state how “near” to the ocean, nor whether all low-lying development regardless of location is considered “shoreline development,” nor whether the “water’s edge” would include the water in the man-made Seadrift Lagoon, among other unanswered questions. To our knowledge, this lack of definition as to what would in fact constitute “shoreline” development - which goes to the very heart of the proposed new section 22.64.060 - remains unaddressed anywhere in the proposed LCP amendments. Again, this issue is being left to each individual planner who will be without guidance as to the scope and application of the meaning of “shoreline.”

ANALYSIS TO EVALUATE HAZARDS RATHER THAN STRUCTURES

The second paragraph then goes on to require that the coastal hazards analysis “evaluate the effect of geologic and other hazards to ensure stability and structural integrity for the minimum 100 year period.” This requirement appears to be nonsensical. Surely geologic hazards no matter how thoroughly evaluated they may be, will not “ensure stability and structural integrity.” Rather, it is the design and location of proposed structures that will, or will not, ensure their stability and structural integrity, whereas geologic hazards will potentially threaten those aspects of proposed shoreline development projects.

ANALYSIS TO EVALUATE IMPACT ON CATCHALL ISSUES

The remainder of the second paragraph focuses on the effect of proposed shoreline projects on “coastal resources” but puts “public access” and “public views” which are clearly protected coastal resources in the same category as something called “shoreline dynamics” and “natural landforms,” which may or may not be, depending upon what is intended by those rather vague terms. The mishmash of subjects in this section that are required to be included in each coastal hazards analysis for proposed shoreline development projects reflects the lack of care and attention with which the entire proposal was drafted, and the lack of clarity in a draft that Marin County is being asked to enact as one of its ordinances. The last sentence of the second paragraph is a run-on sentence that requires an analysis of how “project impacts continue and/or change over time, including in response to sea-level rise” [it is unclear how “project impacts” could “continue” over time “in response” to sea-level rise], and goes on to say “including in terms of not only the impacts associated with the elevated structure [apparently on the unwarranted assumption that all structures will be elevated], but also in terms of related development, such as required ingress/egress to structures and the provision of services (e.g. water, wastewater, etc.).” It is not clear in what way ingress and egress, and water and wastewater services would necessarily be “related development” to every proposed development project, nor who would be responsible for performing a coastal hazards analysis with respect to those issues. All in all, this part of the proposed section appears to have been thrown together in order to include every conceivable issue that might become relevant regarding any proposed development project regardless of likelihood.

PROHIBITION OF CONSIDERING SHORELINE PROTECTIVE DEVICES

I have written to you previously about the provisions that prohibit permit applicants from Seadrift from taking into consideration the existing shoreline protective device of the rock revetment seawall that runs along the length of the Seadrift ocean beach, and I will not repeat that discussion here. Suffice it to say that the proposed development code section, to the extent that it prohibits consideration of the Seadrift seawall, must be revised in that respect as well.

Nancy Cave
Kevin Kahn
California Coastal Commission
March 6, 2015
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NEED TO RECONCILE TWO PROPOSED CODE SECTIONS

Two related provisions also proposed by Commission staff are proposed sections 22.68.050 and 22.68.060. The former provides that additions to existing structures of less than 10 percent of the existing floor area, and garages, swimming pools, fences and storage sheds and landscaping are all designated as exempt from requiring a coastal development permit. The proposed section goes on to provide that replacement of less than 50% of a structure is also exempt. It is difficult to square these specific provisions with the second paragraph of proposed section 22.64.060 described above, which requires a coastal hazards analysis for "additions to existing structures, and coastal redevelopment" with no stated standard as to minimum size. The two proposed provisions need to be reconciled.

NEED TO IDENTIFY NON-EXEMPT AREA, IF ANY, WITHIN SEADRIFT

More important from the standpoint of Seadrift is proposed section 22.68.060 which states that for any development on property located "between the sea and the first public road paralleling the sea," any improvement of 10% or more to a structure is non-exempt from requiring a coastal development permit. This could mean that all of Seadrift is covered by that provision, since the roads within the development are not public. However, a public road leads up to the Seadrift entrance and then extends as a private roadway the full length of the sandspit, so it is not entirely clear whether the entire Seadrift sandspit would be covered by this provision, or not. This is yet another ambiguity in the Commission staff's proposals.

All in all, the proposed development code provisions described above are so replete with uncertainty that when they are applied, if they ever are to be, the planners and other staff who attempt to apply them will have virtually complete and unfettered discretion to decide whether or not a proposed development should receive a permit. This is not the rule of law. Major revisions to the proposed development code sections must be made before they become adopted as County ordinances.

We do intend to follow up this letter with some proposed language as you suggested at our recent meeting. However, the existing proposal is completely off the mark and must be abandoned as written. It essentially requires that each individual applicant for a development project submit engineering reports that answer questions about the level of anticipated sea level rise, and the likelihood and severity of earthquakes and tsunamis, among other things, over the next 100 years, that no one – including Commission and County staff – can actually answer. Let me know if you wish to discuss the contents of this letter, or if you have any questions or need any further clarifications about the matters discussed here.

Sincerely,



Peter B. Sandmann

PBS:me
cc: Tom Lai
Jack Liebster

From: psandmann@gmail.com on behalf of [Peter B. Sandmann](#)
To: Cave.Nancy@Coastal; Kahn.Kevin@Coastal
Cc: [Jack Liebster](#)
Subject: Marin County LCP issues
Date: Tuesday, March 24, 2015 7:55:30 PM
Attachments: [22.64.060B9Revised150324.docx](#)
[22.68.060BRevised150324.docx](#)
[22.64.060A4Revised150324.docx](#)
[22.68.060ERevised150324.docx](#)
[22.64.060A1-2Revised150324.docx](#)

Nancy,

Attached, as we promised, are some suggested revisions to the implementation plan provisions proposed by your office and by Marin County. As we had discussed, our primary focus has been on 22.64.060, the section calling for an environmental hazards report along with a coastal hazards analysis. We were simply unable to modify that proposed section in a way that made any sense to us, so as you will see, we have completely re-written it, but without, I think, departing from the essential requirements that would be reasonable to impose. We have also made an attempt to define "shoreline development" for the purpose of establishing the type of development that would require a coastal hazards analysis.

We have proposed a small change to 22.64.060B9. We have also addressed what we believe is the unnecessary over broad reach of proposed section 22.68.060B. It seems to us that requiring a coastal permit for all fences or for every single improvement if a property has benefitted from a single exemption in the past, regardless of the location of the property, is overkill. Considering the scope of the requirements for hazards reports and the like, overly expanding the types of developments that will require a coastal permit will create unnecessary burdens both on property owners and on County and Commission staff.

We have also proposed a carve out in 22.64.060A4 to deal with the houses that are required by FEMA to be elevated, but that would not otherwise need piers and caissons, i.e. that are not sitting on the beach subject to wave run as are some of the houses outside of Seadrift in Stinson Beach.

Finally, we have proposed reinstating 22.68.060E which speaks to the Seadrift revetment. You already have our remarks about that issue which I will not repeat here.

We also hope to send you some back up discussion to support some of our revisions before our meeting. However, I wanted to get these drafts to you as soon as possible.

Peter

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Thank you.

22.64.060B.9. REVISED

9. **Prohibition on Creation of new parcels abutting coastal waters.** Creation of new parcels on lands abutting the ocean, bays, lagoons (**other than man-made**), or other coastal water bodies shall be prohibited unless the new parcel can be developed ~~with structures that will~~ consistent with all applicable LCP provisions, including that any such development will not require a shoreline protective device during ~~their~~ its ~~economic~~ lifetime.

22.68.060 REVISED

B. Alterations within geographically defined appealable areas. On property that is located between the sea and the first paved road paralleling the sea (not including private driveways to individual residences) or within 300 feet of the mean high tide of the sea, whichever is the greater distance, improvement that would result in an increase of 10 percent or more of floor area of an existing structure, an increase in height by more than 10 percent of an existing structure and/or any significant non-attached structure such as garages, shoreline protective works or docks.

22.64.060A.4. REVISED

4. **Engineering report for shoreline protective devices.** Coastal permit applications for the construction or reconstruction of any shoreline protective device, including revetments, breakwaters, groins, seawalls, bluff retention devices, deep piers/caissons **designed primarily for protection from beach or bluff erosion control rather than to support a single family residence in order to meet minimum heights as mandated by FEMA,** or other artificial structures for coastal erosion control and hazards protection shall include a report from a professional civil engineer or certified engineering geologist experienced with coastal processes and structures verifying that the device is necessary ~~for coastal~~ to protect an existing structure in danger from erosion ~~control~~ and explaining how it will perform its intended function and the extent to which it will meet the criteria and standards contained in Section 22.64.060.BC.5 below. The report shall include information on the existing structure that is being threatened by erosion; likely time period when the structure will be at risk; and an analysis of alternatives to a shoreline device that are capable of protecting existing threatened structures from erosion including: no action, involvement in regional beach nourishment, a different type of shore protection, options for bioengineering and groundwater controls, and modification to, resizing or relocation of the threatened structure. In addition, the report shall include the following information:

22.68.060E. REVISED

E. **Seadrift Revetment.** Extraordinary maintenance of the rock revetment as permitted by Coastal Commission permit #A-1-MAR-87-235-A issued August 31, 1994. Extraordinary maintenance is defined to include placement of any material on or adjacent to the seaward face of the revetment (other than replacement of dislodged material) or which expands the height or length of the revetment. Pursuant to Coastal Commission permit #A-1-MAR-87-235-A issued August 31, 1994, applications for permits for development within Seadrift may rely upon and take into consideration the existence and effect of the Seadrift revetment notwithstanding provisions of the Code to the contrary.

22.64.060A.1 and A.2. – Environmental Hazards REVISED AND RESTATED

A. Application requirements.

1. **Environmental hazards report.** A report prepared by a qualified registered civil or structural engineer, or licensed geologist or engineering geologist, shall be included in all coastal permit applications for development on properties in the coastal zone located on steep slopes having an average grade greater than 35 percent, or having unstable slopes regardless of steepness, on properties in Alquist-Priolo earthquake hazard zones, and/or in areas reasonably subject to risk from any or all of the following hazards during the economic lifetime of the development: Tsunami inundation, landslides, liquefaction, episodic and/or long-term shoreline retreat, beach or bluff erosion, high seas, storm surge, ocean wave run-up, tidal scour, and/or flooding, including inundation due to sea level rise as projected by the best available science.

The report shall describe the extent of these hazards. The report shall recommend construction, siting, and other techniques to assure stability and structural integrity following then-existing standards for minimizing the impact of each identified hazard on the development during its economic lifetime. If the identified hazards include any or all of tsunami inundation, beach or bluff erosion, ocean wave run-up, or flooding, the report shall evaluate anticipated changes to the extent and impact of these hazards caused by sea level rise during the economic lifetime of the development; furthermore, the report shall demonstrate that the development will not require the construction of shoreline protective devices during its lifetime in order to meet expected minimum timeframes for stability and structural integrity.

Where prepared for shoreline development, whether new development on vacant/undeveloped lots, additions to existing structures, or coastal redevelopment, the report shall specifically include a coastal hazards analysis (see Land Use Plan Policy C-EH-5-B). The coastal hazards analysis shall in addition to the above requirements, including those requirements addressing stability and structural integrity without the construction of shoreline protective devices, evaluate the effect of the project over time on coastal resources (such as public access, public views, shoreline dynamics, and natural landforms, including future effects resulting from sea-level rise as projected by the best available science). The analysis shall also include impacts associated with elevated structures, if any, and associated with related development issues such as necessary ingress and egress and such services as water, wastewater, etc.

The County's hazard mapping program can be used as a resource for identification of hazard areas, and for evaluation of the impact of sea level rise in these areas; however, absence of mapping cannot alone be considered absence of hazard, and local site conditions must be examined at time of permit application according to then-existing standards which take into account the best available science for each hazard. (See Land Use Plan Policy C-EH-2.) For purposes of the Environmental

Hazards Report, the lifetime of a development subject to hazard shall be considered to be up to 100 years for projects with priority uses such as public services, public access and recreation, for critical infrastructure, or as otherwise determined by the County's hazard mapping program (see Land Use Policy C-EH-22.a.1); for private single-family home development, the economic lifetime of a development subject to hazard shall be considered to be 50 years.

2. **Shoreline Development.** Shoreline development is development within 100 feet of the mean high water line of ocean tidal waters (as defined by NOAA's National Ocean Service), or in areas otherwise determined by the County's hazard mapping program (see Land Use Policy C-EH-22) to be subject to beach/shoreline migration which would place a proposed development within 100 feet of the mean high water line of ocean tidal waters during its economic lifetime. Consistent with Land Use Policy C-EH-5, shoreline development includes new development on vacant/ undeveloped lots, additions to existing structures, and coastal redevelopment. Shoreline development shall meet then-current accepted standards for construction and siting – which may include setting back the development from the nearest mean high water line – that provide for stability and integrity of the development for its economic lifetime.

LAW OFFICES
TESLER & SANDMANN

PETER B. SANDMANN

PLEASE REPLY TO:

PAULINE H. TESLER
CERTIFIED FAMILY LAW SPECIALIST
STATE BAR OF CALIFORNIA

→ MILL VALLEY OFFICE

SAN FRANCISCO OFFICE

March 29, 2015

VIA EMAIL AND U.S. MAIL
Nancy Cave, District Manager
North Central Coast District
California Coastal Commission
45 Fremont St #2000
San Francisco, CA 94105

Kevin Kahn, Supervising Coastal Planner
North Central Coast District
California Coastal Commission
Cooperhouse Shopping Center
725 Front St, No. 300
Santa Cruz, CA 95060

Re: Marin County Local Coastal Program amendments
Supporting arguments for our proposed revised IP amendment provisions

Dear Ms. Cave and Mr. Kahn:

This letter is intended to provide support for the proposed revised implementation plan (IP) provisions that we sent to you previously. As you will recall, when we met together in February, one of the Seadrift representatives at the meeting was Jeff Loomans. Jeff is a member of the Marin County C-Smart working group, which is the County's stakeholder advisory group that is charged with gathering the best available science in order for the County to establish standards to be met with respect to sea level rise (SLR) in this century. Much of the following is based on information that Jeff has gleaned in connection with his work in the C-Smart process.

The State of California Sea-Level Rise Guidance Document, issued in March, 2013 pursuant to the Governor's Executive Order S-13-08, provides information and recommendations to state agencies as they develop approaches for incorporating sea level rise into planning decisions. One of its most important recommendations is the need to consider a balance of time frames, adaptive capacity, and risk tolerance in planning, as Marin County is doing pursuant to the program set forth in Land Use Plan Program C-EH-22.a.2.b (the "C-SMART" project). The C-Smart project is presently engaged in preparing a broad range of sea level rise scenarios and appropriate policy responses. In our view, the current land use planning proposals drafted by Coastal Commission staff seem to ignore this state-mandated process by attempting to establish a single straitjacket of a 100-year sea level rise stability and structural integrity requirement for all coastal development; which as written may be construed as requiring planners and engineers to only consider the worst case scenarios over this very extended time frame, no matter how unlikely, and which makes no attempt to distinguish high impact critical public-use from low impact privately-owned development, or to distinguish developments with high adaptive capacity and risk tolerance from projects with low adaptive capacity or risk tolerance. The State's sea

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TELEPHONE: (415) 763-5645 FACSIMILE: (415) 358-5674

MILL VALLEY OFFICE: 38 MILLER AVENUE, NO. 128, MILL VALLEY, CA 94941
TELEPHONE: (415) 383-5600 FACSIMILE: (415) 358-5674

Exhibit 5 (Correspondence)
LCP-2-MAR-13-0224-1 Part B (Marin IP Update)
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Kevin Kahn, Supervising Coastal Planner
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level rise Guidance Document specifically recommends that planners take these considerations into account. What is striking is that while Marin County appears to us to be methodically and carefully accounting for each of these balancing factors under its C-SMART project, the language proposed by Coastal Commission staff – itself a state agency – makes no attempt to do so.

A 100-year Sea Level Rise Standard Is Problematic As A Uniform Requirement

First and foremost, the State Guidance Document is candid in recognizing that while sea level rise is occurring, and is likely to continue to do so with increasing severity as time progresses, beyond a roughly 35-50 year threshold the best available science provides little in the way of the sort of clear sea level rise projections or concrete inundation estimates that might factor into rational development planning and engineering design. "The timeframe identified for a project is an important consideration for SLR projections and will affect the approach for assessing SLR impact. Until 2050, there is strong agreement among the various climate models for the amount of SLR that is likely to occur. After mid-century, projections of SLR become more uncertain; SLR projections vary with future projections due in part to modeling uncertainties, but primarily due to uncertainties about future global greenhouse gas emissions, and uncertainties associated with the modeling of land ice melting rates."

According to the State's Guidance Document, uncertainty over the longer-term could in fact lead to a serious risk of under- or over-estimating SLR, which means that agencies should take a project-level, not a one-size-fits-all approach, especially when considering time frames which are known from the outset to be largely inaccurate. "These realized impacts, in turn, depend on the extent to which the project design integrates an accurate projection of SLR. However, current SLR projections provide a range of potential SLR values and lack precision. . . . Therefore, agencies must consider and balance the relative risks associated with under- and/or over-estimating SLR in making decisions." The Document goes on to state that "harmful impacts that might result from overestimating SLR include financial costs of over-engineering shoreline structures," among other impacts. As we have pointed out previously, some of the language proposed by Coastal Commission staff in the current draft of the IP makes none of these distinctions. Instead, the currently proposed language seems to simply ignore these recommendations in seeking to impose a uniform 100-year requirement for all developments in all coastal sites, without regard to balancing the significant risks of overestimation at such an extreme time frame.

In our February meeting with you, we pointed out that the accepted range of potential sea level rise within 100 years along the coast of Marin according to the best available science varies from eight inches to six feet, six inches, and that at the extreme end of that range the IP language proposed by Coastal Commission staff would effectively prohibit any development at all in

Nancy Cave, District Manager
Kevin Kahn, Supervising Coastal Planner
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almost all portions of Marin County's coast – certainly not an approach that would “consider and balance the relative risks,” as called for in the State Guidance Document. Kevin Kahn, for one, seemed surprised at this extreme forecast range and seemed to agree that for at least some types of development, it might be reasonable to project a sea level rise closer to ten inches than to six and a half feet, which would go in the direction of the balance we are suggesting. Yet to date we have seen nothing like this consideration reflected in the staff's proposed language.

The Need to Strike Development-Specific Balance

Furthermore, the State Guidance Document notes that if projections of sea level rise beyond mid-century are even to be considered at the project level, it is imperative to carefully balance local area considerations of public impact, cost, and adaptive capacity. “Therefore, for projects with timeframes beyond 2050, it is especially important to consider adaptive capacity, impacts, and risk tolerance to guide decisions whether to use the low or high end of the ranges presented.” As you know, Coastal Commission staff's proposed language makes none of these distinctions regarding cost or impacts when requiring that all projects meet a sea level rise standard extending well beyond the 50-year threshold to a minimum of 100 years. We suggest, in contract, holding critical public infrastructure to a higher expected lifetime standard than might be required for projects having a much lower-impact such as single family homes. Moreover, staff's proposed language ignores considerations of adaptive capacity and risk tolerance of individual projects, requiring instead a “guarantee [of] structural stability and integrity” for a 100 year period for each and every development, such that no development at all can occur where sea level rise could pose any maintenance hazard. This rigid standard ignores the ability of private family home owners to respond and rebuild following severe storms, as well as their presumed higher risk tolerance compared to, for instance, the developers of a public service facility such as a school or hospital. These distinctions should lie at the very heart of standards for considering adaptive capacities and risk tolerances respectively, yet the staff's proposed language fails to acknowledge them at all.

What strikes us as particularly problematic is that Coastal Commission staff, in Staff Report Addendum Number 2 for Th12a dated May 14, 2014 (submitted the day before the Coastal Commission's hearing on the Marin County Land Use Plan portion of the proposed amended LCP) acknowledges that such a balanced analysis is in fact warranted in creating sea level rise development standards for coastal Marin. After several paragraphs devoted to noting that a specific county-wide vision for land use in shoreline areas was lacking, and that simply adopting current bluff-top development provisions for the very different problems of low-lying shoreline development was considered inappropriate, the Staff Report notes that the Commission itself had decided to award grant funds to the County for appropriate evaluation and policy-making for low-lying areas subject to sea level rise, and that “In other words, this upcoming assessment and LCP amendment project appears to be exactly the type of vehicle

Nancy Cave, District Manager

Kevin Kahn, Supervising Coastal Planner

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appropriate for identifying the issues and developing a response, including providing for a local public participation process that can help form the basis for objectives and a vision for this shoreline interface moving forward.” It would indeed seem to be difficult if not impossible for Commission staff to develop standards as guidance that balance local-area considerations in the acknowledged absence of the necessary local-area information that the grant is designed to elicit. This is in fact what the C-SMART project is moving forward to accomplish, including specifically in the areas of adaptive capacity, public cost and impact, and risk tolerance. For the Commission staff to ignore this process mid-stream, a process which the Commission itself created, and forge ahead with a blanket standard that effectively shuts down development along the coast *prima facie*, seems to us both arbitrary and capricious. Why would Commission staff not instead make reference to LUP Program C-EH-22.a.2.b as the appropriate balancing mechanism, for instance using it as the reference standard for identification of which areas and types of development should be subject to various 50 or 100-year time frames, or as a standard for the types of development that could be considered to have sufficient adaptive capacity and risk tolerance to be held to less exacting requirements than projects lacking these key criteria?

This strongly argues for several considerations:

1) We Propose A 50 Year Standard for Single-Family, Private Development.

Where risks to public use and safety are low, and/or adaptive capacity and risk tolerance is high, it would be more prudent as per the State Guidance Document to apply at most a 50-year standard for expected economic lifetimes in the face of sea level rise. 100-year standards are so scientifically uncertain and themselves high-risk in application as to mandate much more careful attention to the situations in which they may be warranted; they should be reserved for cases where the offsetting risk to the public of loss of the structure, even in highly unlikely scenarios, outweighs the cost of over-estimating sea level rise. It is understandable that for critical public infrastructure such as highways, fire stations or hospitals, risks to public use could be high and the ability to quickly respond and/or relocate critical developments to safer ground could be low. However, single-family privately owned developments are not "public use" and, relative to the costs and speed at which larger public developments could be rebuilt, are generally far less expensive to redevelop or move as needed. Hold-harmless requirements mandated by the Commission for privately built homes, and the existence of FEMA minimum height requirements, and insurance, both additionally absolve the State and County from financial risk in these cases; the argument that they might impose undue risks of public costs is therefore untenable. So it is hard to see that Coastal Commission staff proposals holding private single-family residences with far different risk tolerances and adaptive capacities to the same 100 year standard as critical public infrastructure are acceptable, especially in light of the State mandate to strike a balance when extending beyond a mid-century time frame.

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Kevin Kahn, Supervising Coastal Planner
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2) We Propose The Use Of Accepted Standards For Development In Areas Subject To Coastal Hazards.

Development design and building standards are created and vetted by experienced engineering bodies and serve to guide engineering and design in areas subject to the hazards Commission Staff is concerned about: see, e.g., IBC 1612 for flood loads in areas subject to storm surge and wave runup inundation, or ASCE 7-2016 for development in areas subject to tsunamis. It should be these accepted standards, as applied by developers and consulting engineers during design and construction, which provide for the stability and integrity of developments in areas subject to hazards – not the “environmental hazards report” or “coastal hazards analysis” described in the Commission staff’s proposal. If the latter were to be the case, effectively each new project’s engineering report would be required to analyze primary science sources in some manner unspecified by the proposed Implementation Plan language and thence from whole cloth derive its own design and construction standards. Furthermore, it would then be the job of County planners – who through no fault of their own simply do not have the experience and standing of an IBC or ASCE standards subgroup – to then independently determine if the primary research in the “environmental hazards report” or “coastal hazards analysis” is correct or not. We cannot imagine that was the intent of staff, when best practice and the application of best available science is usually held in construction to be found by adherence to accepted engineering standards.

Unfortunately, as proposed, the Commission staff’s language does not follow accepted practice. The proposed draft states, in part, that: “A coastal hazards analysis shall be ... required to evaluate the effect of geologic and other hazards to ensure stability and structural integrity for the minimum 100 year period.” It simply cannot be the case that each individual report regarding proposed development of single family homes will ensure stability and structural integrity. Rather, we propose it be made clear that specifically in section 22.64.060.A.1 such reports need to demonstrate that for each of the reasonably applicable hazards, including as their severity may be worsened over time by sea level rise, appropriate standards for construction in the light of those hazards have been followed and met. And we propose that adherence to accepted standards, rather than reliance on each engineer and planner to make independent scientific judgments, should similarly be the guiding principle of analogous language in any other sections of the proposed Implementation Plan.

3) We Propose That LUP Policy C-EH-22 Provide A Key Source Of Sea Level Rise Standards.

The May 15, 2014 Coastal Commission’s approved “Suggested Modifications” to the proposed draft of the Marin County LCP Land Use Plan, dated July 30, 2013, makes two very specific provisions with regard to Program C-EH-22.a: First, that C-SMART should “Continue to gather information on the effects of sea level rise on Marin County’s Coastal Zone shoreline, including identifying the most vulnerable areas, structures, facilities, and resources; specifically

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Kevin Kahn, Supervising Coastal Planner
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areas with priority uses such as public access and recreation resources Any vulnerability assessment shall use the best available science and multiple scenarios including best available scientific estimates of expected sea level rise” Second, that C-SMART should “Based on information gathered over time, propose additional policies and other actions for inclusion in the LCP in order to address the impacts of sea level rise.” These include, specifically “changes to LCP land uses, and siting and design standards for new development, to avoid and minimize risk.” In spite of these clear mandates, the only reference in the Commission staff’s Implementation Plan language as currently proposed is a minor inclusion in section 22.64.060.A.1 Environmental Hazards Report, specifying that “The County’s hazard mapping program (see Land Use Policy C-EH-22) can be used as a resource for identification of hazard areas.” When Commission staff in its own Report has admitted that a larger vision for development is lacking, that public input necessary for risk balancing has not yet occurred, and that proposed language for shoreline development may have been inappropriate to such an extent that funding of the program was warranted in the first place, why would the Commission not await the results of and make full use of this program?

We would propose at least two key inclusions to help remedy some of the problems outlined above. First, the mapping program should be considered not just a resource to identify hazard areas, but also as a resource for the much more fundamental problem – which would be exceedingly onerous for a developer or consulting engineer to independently take on – of determining based on the best available science what the impact of sea level rise would most likely be in the proposed siting area. Given that this is in fact the stated first objective of the funded C-Smart project, it would seem unreasonable to intentionally omit it from the proposed implementation standards.

Second, we propose that better-balanced policies, open to local public input and governing which types of development should be subject to various stability and structural integrity time frames and standards, including for instance 50- or 100-year standards, should be set as part of the C-SMART process as proposed in C-EH-22.a sections 2 and 2.b. specifically. The current overreaching 100-year time frame should, at a minimum, be suspended in a manner analogous to the suspension of prohibition on deep pilings/caissons, until 2016/2017 when the sea level study process concludes. It would seem particularly capricious and unreasonable to rush forward with such a 100 year standard a year earlier than the project’s designated deadline, when staff’s own language indicates that information necessary to proper creation of the language was lacking, and that Program C-EH-22.a is “appropriate for identifying the issues and developing a response.”

We have said enough here, I hope, to convince you that the proposed Implementation Plan provisions that we have been discussing here and in previous letters – specifically 22.64.050, 22.68.050 and 22.68.060 – are misguided and at a minimum premature. We believe,

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Kevin Kahn, Supervising Coastal Planner
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for reasons we have expressed, that the proposed provisions are fatally flawed even if they were timely. But as this supporting letter surely shows, the proposed provisions are clearly not ready to be adopted while the issues that they attempt to address are in the midst of being evaluated in a process that the Coastal Commission itself has mandated.

We look forward to discussing these issues with you and responding to any questions you may have. Thank you for your consideration of this overlong supporting letter.

Sincerely,
Peter B. Sandmann
Peter B. Sandmann

PBS:me

cc: Tom Lai
Jack Liebster

RECEIVED

MAR 04 2015

March 2, 2015

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

5 Ahab Drive
Muir Beach, CA 94965

Kevin Kahn
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508 ~~San Francisco, CA 94105~~

Re: Revision to sec. 22.56.120I of the Marin County Interim Zoning Ordinance

Dear Kevin,

I am enclosing copies of supplemental exhibits pertaining to the above captioned case. I believe that this record is germane to the efforts by the Community Development Agency to eviscerate the provisions of section 22.56.120I of the Interim Zoning Ordinance. if successful, the proposed revision would remove any limitation on how long developers would have to complete projects in the coastal zone.

I would appreciate it if the documents that I have sent you would be included in the official records of the Coastal Commission's consideration of the Development Code which is presently under review.

Thank you for your consideration.



Richard S. Kohn

Encl.

RECEIVED

MAR 04 2015

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

March 2, 2015

5 Ahab Drive
Muir Beach, CA 94965

Shannon Fiala
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: 36 Starbuck Drive, Muir Beach

Dear Ms. Fiala,

I am enclosing Supplemental Exhibits to my appeal filed in this case.

Between June 12, 2013 and December 29, 2013, the Community Development Agency and I exchanged voluminous correspondence as I tried to determine how the development project at 36 Starbuck Drive was permitted to proceed without a coastal permit. The correspondence shows that the CDA confused its role as regulator with being a facilitator. Time and again the CDA bailed the developer out in violation of its own rules.

I do not know whether this correspondence is part of the CDAs administrative record in this case. It is not part of the records available to the public. This correspondence should be part of the record because procedurally it shows that I am an "aggrieved person" pursuant to section 22.56.0801 and that it would be an exercise in futility to pursue any local administrative remedies with Deputy Zoning Administrator Jeremy Tejirian or Deputy Director/Planning Director Tom Lai. Both of those individuals were personally involved in the decisions that were made in this case.

Most importantly, the correspondence shows that the CDA made a conscious decision to allow the developer to proceed with the project without a coastal permit. In an email dated July 10, 2013, Tom Lai states, with pretzel-like logic:

"As the Planning Department does not have a means to monitor the progress of the building permit review by other County departments after the building permit application has received Planning approval (that occurred on 2/29/08), Planning staff would not have known that review of the building permit continued to occur after the expiration of the Coastal Permit. Had we known that a building permit would not have been issued prior to the expiration of the Coastal Permit, we could have advised the applicant to submit an extension to the

Coastal Permit. Having been brought in to review the sequence of actions, I requested the Building Department to grant an extension to the building permit application without a Coastal Permit extension."
(Ital. added)

In other words, in order to help the developer out of a jam, the CDA decided to treat Section 30600(a) of the Coastal Act and section 22.56.040I of the Interim Zoning Ordinance as though they did not exist. (I fully responded to this in my letters dated July 11, 2013 (Lai) and December 29, 2013 (Crawford)). Pursuant to Interim Zoning Ordinance sec. 22.56.010I and the language in Board of Supervisors Ordinance No. 3524, all the permits issued in this case (including the recent permits for the retaining wall and pool) were null and void after the coastal permit expired on February 27, 2011.

Even if the coastal permit had not expired, the six year maximum limitation period allowed by Interim Zoning Ordinance sec. 22.56.020I has now expired. I would appreciate it if you would immediately inform the developer and the CDA that the project cannot proceed in the absence of a valid coastal permit and that the CDA is restrained from issuing a coastal permit pending appeal; and further instruct the CDA to deliver the administrative record to the Executive Director within five days pursuant to California Coastal Regulations Sec. 13112 or 13320, whichever is applicable.

I would also be grateful if you would make this letter and the Supplemental Exhibits part of the administrative record in this appeal.

Please feel free to email me with any questions you may have.

Thank you for your consideration.

Very truly yours,


Richard S. Kohn

cc. Kevin Kahn

Encl.

APPEAL OF EXTENSION GRANTED 36 STARBUCK DRIVE MUIR BEACH,CA

SUPPLEMENTAL EXHIBITS

June 12, 2013 Letter to Tom Lai from Richard Kohn w/attachments

June 14, 2013 Email to Richard Kohn from Tom Lai

June 28, 2013 Email to Richard Kohn from Jeremy Tejirian

June 21, 2013 Letter to Tom Lai from Richard Kohn (several)

June 21, 2013 Email to Tom Lai from Richard Kohn (several)

June 21, 2013 Email to Richard Kohn from Tom Lai

June 28, 2013 Email to Jeremy Tejirian from Richard Kohn

July 4, 2013 Letter to Tom Lai from Richard Kohn

July 10, 2013 Letter to Kevin Kahn from Richard Kohn (CC to Jack Liebster, Tom Lai)

July 10, 2013 Email to Richard Kohn from Tom Lai

Board of Supervisors Ordinance No. 3524

July 11, 2013 Letter to Tom Lai from Richard Kohn

July 15, 2013 Letter to Supervisor Kathrin Sears from Richard Kohn (CC to Brian Crawford, Tom Lai, Jack Liebster, Kevin Kahn, Marin County Supervisors

July 18, 2013 Letter to Richard kohn from William P. Kelley w/attachments

August 19, 2013 Letter to Tom Lai from Richard Kohn

September 30, 2013 Letter to Supervisor Steve Kinsey from Richard Kohn

October 14, 2013 Letter to Supervisor Steve Kinsey from Richard Kohn

December 17, 2013 Letter to Richard Kohn from Brian Crawford

December 29, 2013 Letter to Brian Crawford from Richard Kohn

Building Permit No. 133220 showing extension to 2/14/14

Building Permit No. 133220 showing extension to 2.21/15

June 12, 2013

5 Ahab Drive
Muir Beach, CA 94965

Tom Lai
Deputy Director
Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

Re: 36 Starbuck Drive, Muir Beach, Assessor's parcel 199-272-04

Dear Tom,

I am writing concerning the process by which a construction project located at 36 Starbuck Drive came to be approved.

The development entails a 3274 sq.ft residence, plus a 500 sq.ft garage, plus a swimming pool. Construction began in January 2013 when bulldozers and other equipment suddenly appeared. The last opportunity for public comment regarding this project was in *February 2008*. A process whereby a developer can obtain a permit and then obtain extensions for five or six years from the CDA without any public notice or comment during the intervening years is fundamentally flawed. During that time the original residents may leave and new residents who might object to the project may move in. This makes a farce of public notice and comment procedures.

Furthermore, the elliptical public record of this permit approval raises disturbing questions. The record shows the following: Planning approved a coastal permit on 2/27/08 and Planning signed off on a building permit application on 2/29/08. Public notice was given in February 2008 and three letters from the public were submitted. This was the only opportunity given to the public to comment.

The building permit was extended from 2/29/09 to 2/29/10. The building and planning permits were extended again from 2/29/10 to 2/29/11 pursuant to BOS Ordinance 3524. The developer then applied for a further one year extension from 2/29/11. This application was rejected by staff (**EXH. A**) but that decision was overruled by you in a memorandum dated January 5, 2012. **EXH.B**. Thus, the last documented approval of the development was on January 5, 2012. Your memorandum to Bridgette Choate and Bill Kelley explains in detail why you thought an extension was warranted and states "I am inclined to support his request *for one final, one year extension* to the Building Permit application, from 2/29/11 to 2/29/12 (emphasis added)." The same day, Bridgette

Choate notified the developer that the permit would be extended for one year upon the payment of a fee. **EXH.C.**

Notwithstanding, a Building Permit dated 2/21/2012 contains a cryptic notation "OK to Extend Application to 2/14/2014." **EXH.D** In sharp contrast to your letter dated January 5, 2012 referenced above, there is no documentation in the record to show who granted this two year extension or why. A note on the same Building Permit states: "tejerian-- letter of risk approved." Not only is there no "letter of risk" in the file, but none of the staff whom I spoke with in Room 308 had any idea what a "letter of risk" is. Obviously, decisions that impact the public should be documented and available in the public record for public scrutiny.

I would appreciate it if you would identify the criteria which CDA staff apply in deciding whether to grant extensions: explain the process by which the building permit in this case was extended for two years beyond 2/29/12; provide any documentation in support of the extension to 2/14/2014; and identify the person who approved the extension. I also request that you provide an explanation and a copy of the "letter of risk" referred to in Exhibit D.

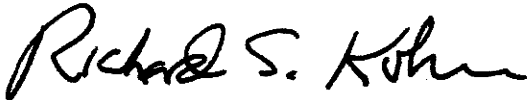
As noted above, there is something fundamentally wrong with a process in which five years can pass between public notice of a project and the beginning of construction. During the intervening years residents may leave and others, who might have an objection if they knew about it and were given the opportunity to comment, move into the neighborhood. For example, Steve and Linda Hulley, who opposed the height of the building, no longer live in Muir Beach. Under the present system, new residents have no forum or opportunity to voice any objections which they may have.

Since the Board of Supervisors is in the process of amending the Development Code, it might be appropriate to include a provision that extensions shall be limited to two years after the permit was originally granted. That would prevent a developer from insulating a project from meaningful public scrutiny by waiting several years to commence construction. In addition, the criteria applied by staff for granting extensions should be codified if that is not already the case. No administrator should have unbridled discretion.

Furthermore, decisions granting extensions should be documented and be available in the public file. Administrative decision making requires transparency. The record in this case is deficient in that respect. Proper procedures should be put in place if they do not already exist.

I would be happy to meet with you at your convenience to discuss these issues. Please feel free to contact me at brendakohn@aol.com.

Thank you for your consideration.

A handwritten signature in black ink that reads "Richard S. Kohn". The signature is written in a cursive, flowing style.

Richard S. Kohn

cc. Brian Crawford
Jeremy Tejerian
Jack Liebster

Bridgette

Choate, Bridgette
Wednesday, January 04, 2012 12:01 PM
'alexwt@mac.com'
'michaeljmamone@yahoo.com'; Kelley, Bill
Extension of the permit application for 36 Starbuck Dr., Muir Beach

Subject:

January 4, 2012

Mr. Mamone,

This email is to inform you that Bill Kelley cannot grant you an extension for the single family dwelling at 36 Starbucks Dr., Muir Beach. The design review approval and the coastal permit approval have expired. The permit was never vested.

If you have additional questions or concerns your planner on the project was Jeremy Tejirian of the County of Marin Planning Department.

Bridgette R. Choate

Senior Permit Technician
Marin County
CDA-Building & Safety Division
415 507-2894
bchoate@co.marin.ca.us

A

Choate, Bridgette

From: Lai, Thomas
Sent: Thursday, January 05, 2012 9:10 AM
To: Choate, Bridgette; Kelley, Bill
Cc: Jeremias, Michel; Nicholson, David; Tejirian, Jeremy; Lai, Thomas
Subject: 36 Starbuck Drive, Muir Beach (PIN 500437)

Bridgette and Bill,

Mike Mamome, the owner/applicant for the above-referenced building permit application, contacted me to request an extension to his building permit application.

Based on the facts of the case, I would normally inform him that such an extension would not be possible because his Planning approval has expired. However, in this case, I'd like you to favorably consider granting one final one-year extension of his building permit application (to 2/29/12). Here's why:

1. Planning approved a Coastal Permit on 2/27/08. This approval will expire 2/27/10.
2. Building Permit application submitted 10/1/07, Planning signed off on 2/29/08.
3. Building Permit extended one year from 2/29/09 to 2/29/10.
4. Building Permit extended one additional year from 2/29/10 to 2/29/11, consistent with the automatic extension to the Planning permit by BOS Ordinance 3524.
5. Building and Safety approved plan check on 12/20/10. EHS approved plan check on 12/20/10.

Based on the above, both the Building and Planning approvals would have expired on 2/29/11 and 2/27/11, respectively, since a Building Permit was not issued.

However, Omnis showed that revisions were submitted to DPW on 11/18/10, prior to the expiration, but that those revisions were not approved until 6/17/11, 4 months AFTER the Building and Planning approvals would have expired. Given that the applicant has continued to pursue getting a building permit, and the County continued to process the building permit application after it expired (as evidenced by DPW's approval of the building permit application after the expiration date), I am inclined to support his request for one final, one-year extension to the Building Permit application, from 2/29/11 to 2/29/12.

I would appreciate if you could confirm this and grant the extension.

Thanks,

Thomas Lai, AICP
ASSISTANT DIRECTOR

County of Marin
Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903
415 473 6292 T
415 473 7880 F
CRS Dial 711
tlai@marincounty.org

2/29/12

B

Choate, Bridgette

From: Choate, Bridgette
Sent: Thursday, January 05, 2012 3:29 PM
To: michaeljmamone@yahoo.com; alexwt@mac.com
Cc: Lai, Thomas; Tejrjian, Jeremy; Kelley, Bill
Subject: Extension of the permit application for 36 Starbuck Dr., Muir Beach

January 5, 2012

Mr. Marmone,

Bill Kelley can grant you an extension for the single family dwelling at 36 Starbuck Dr. Muir Beach until February 29, 2012. The fee for granting this extension is \$180.76. Once we receive the fee the permit application will be extended.

Cordially,

Bridgette R. Choate

Senior Permit Technician
Marin County
CDA-Building & Safety Division
415 507-2894
bchoate@co.marin.ca.us

BUILDING PERMIT MARIN COUNTY BUILDING AND SAFETY DIVISION		Permit Number 133220 Date 02/21/2012	APN 199-272-04 Received 10/01/2007	Zone 0 Item# 0	PIN NO. 500437 Ckd By KHF
<u>JOB ADDRESS</u> 36 Starbuck Dr Number Street City / Zip Muir Beach Nearest Cross Street Seacape			Type of Improvement <input checked="" type="checkbox"/> NEW <input type="checkbox"/> ADDITION <input type="checkbox"/> REMODEL <input type="checkbox"/> REV. <input type="checkbox"/> SEWER <input checked="" type="checkbox"/> SEPTIC Use Of Structure (20--1/3) S F D Ok To Extend Application To 2/14/2014) ***Expired Called Lft Message 8-26-11**** County File # 500 Scale Map #		
<u>OWNER</u> Mamone, Michael Phone 415 235-2975 Mailing Address 121 Liberty St San Francisco, Ca 94110					
<u>ARCHITECT OR ENGINEER</u> Thompson Design Associates Mailing Address 90 Adams Ave Mill Valley, Ca 94941 Phone 388-9630 License No. C5746			<u>CONTRACTOR</u> OWNER/BUILDER Class		

Land Development

Sbmtl Rqst sent 8/20/08, -DN
 rev. 11-18-10
 apr 06/17/11

Building and Safety

BC
 OWNER HAS LETTER OF RISK ON FILE NEEDS TO FOR COASTAL REV. (BEST PROGRAM)
 on khf's shelf
 MODIFICATION ARE
 REQ'D.-MARCH 25,2008 BY KHF.
 OK to extend application till 2/29/10. --wpk rec
 rev. 3-4-10
 OK to extend application till 2/29/11. --wpk
 MODIFICATION ARE
 REQ'D.-APRIL 21,2010 BY KHf
 rev 6-17-2010 rev (design change?) rcvd
 11-18-10 MS
 apr.12/20/10

Environ./Health

sent 3/5/08
 3/11/08 STOPPED in EHS, letter sent - JS
 8/5/08 BLDG PERMIT approved w/HOLD for septic final. JS
 APPROVED @ DEC.20, 2010 BY KHF.-BACK TO

Planning Dept.

tejirian--letter of risk approved

From: Lai, Thomas <TLai@marincounty.org>
To: brendakohn <brendakohn@aol.com>
Cc: Lai, Thomas <TLai@marincounty.org>
Subject: 36 Starbuck Drive, Muir Beach
Date: Fri, Jun 14, 2013 11:41 am

Mr. Kohn,

I received your letter of 6/12 raising questions about the extension process for 36 Starbuck Drive. As my involvement did not extend beyond the request to extend the building permit to February 2012, I've asked the project planner, Jeremy Tejirian, to look into the circumstances under which an additional two-year extension was granted, as well as the letter of risk. Jeremy is also our Planning Manager who oversees the permitting operations in the Planning Division.

Regards,

-Tom Lai, Assistant Director

Marin County Community Development Agency

(415) 473-6292

Email Disclaimer: <http://marincounty.org/nav/misc/EmailDisclaimer.cfm>

From: Tejirian, Jeremy <JTejirian@marincounty.org>
To: 'brendakohn@aol.com' <brendakohn@aol.com>
Subject: 36 Starbuck Drive
Date: Fri, Jun 28, 2013 5:41 pm

Richard and Brenda,

Tom Lai received a letter from you recently regarding construction at 36 Starbuck Drive in Muir Beach. I know he's been looking into the issue, but has not yet had a chance to respond. He's out of the office right now but I'm hoping that I might be able to answer some of your questions. Please give me a call at 473-3798 at your convenience if you'd like to discuss the project. Thanks.

Jeremy Tejirian, AICP
PLANNING MANAGER

County of Marin

Community Development Agency

3501 Civic Center Drive, Suite #308

San Rafael, CA 94903

415 473 3798 T

415 473 7880 F

CRS Dial 711

JTejirian@marincounty.org

Email Disclaimer: <http://www.marincounty.org/main/email-disclaimer>

June 21, 2013

5 Ahab Drive
Muir Beach, CA 94965

Tom Lai
Deputy Director
Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

Re: 36 Starbuck Drive, Muir Beach, Assessor's parcel 199-272-04

Dear Tom,

Thank you for your email of June 14. With regard to your retroactive approval of the extension on January 5, 2012 for the period 2/29/11 to 2/29/12. I would appreciate it if you could clarify the procedure that you followed. Requests for extensions of coastal project permits were governed (and are still governed) by Interim Zoning Ordinance Sec. 22.56.120I, which states:

"22.56.120I Expiration date and time extensions.

A coastal project permit *shall expire* two years from the effective date of approval. *Prior to expiration* of a coastal project permit approval, the applicant may apply for an extension up to a maximum period of four years from the original date of expiration. *Notice of a permit extension request shall be provided as established in Section 22.56.065I.* For permits originally issued following a public hearing, pursuant to Section 22.56.070I (A), the deputy zoning administrator shall hear and decide the extension request. *Extensions for coastal project permits originally issued pursuant to Section 22.56.070I (B) shall be issued by the planning director.* Coastal project permit extensions may be granted upon findings that the project continues to be in conformance with the requirements and objectives of the certified local coastal program. *Permit extensions may be appealed as established in Section 22.56.080I.* If a building permit or other permit is issued *during the effective life of a coastal project permit*, the expiration date of the coastal project permit shall be automatically extended to concur with the expiration date of the permit." (emphasis added)

Given the mandatory language, it appears that your extension of the building permit to 2/29/12 violated Section 22.56.120I in several respects.

First, the regulation states that a coastal project permit "shall expire" two years from the effective date of approval. It requires that prior to the expiration of a coastal project permit approval, the applicant can apply for an extension. As you point out in your memorandum to Bridgette Choate, the coastal permit expired on 2/27/10. (See also Bridgette Choate email to the applicant dated January 4, 2012, stating that the coastal permit approval had already expired and that "[t]he permit never vested"). The coastal permit had long since expired when the applicant sought an extension.

In order to extend the life of the coastal permit, a building permit must have been issued "*during the effective life of a coastal project permit.*" In such a case, the expiration date of the coastal permit would be automatically extended to concur with the expiration date of the building permit. When CDA extended the building permit from 2/29/09 to 2/29/10 (and again from 2/29/10 to 2/29/11), the coastal permit had already expired. You acknowledge this fact in your January 5 letter when you say, "Based on the above, both the Building and Planning approvals would have expired on 2/29/11 and 2/27/11, respectively, *since a building permit was not issued.*" (emphasis added).

Second, even assuming that the coastal permit had not expired, the regulation requires that notice of a permit extension request be provided as established in Section 22.56.0651. The file that I examined in your office did not contain any documentation that the required public notice was given. (The only documentation of public notice that I saw was of the original application in 2008).

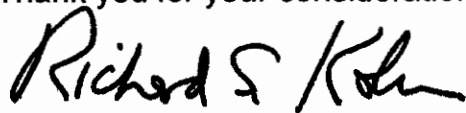
Third, the regulation provides that permit extensions may be appealed to the California Coastal Commission as established in Section 22.56.080I. But if the public was never given notice that the extension was being sought, or notified what your decision was, the right to appeal to the Coastal Commission was meaningless.

Finally, the original permits were granted without a public hearing. Section 22.56.120I provides that extensions for coastal permits originally issued pursuant to Section 22.56.070I (B) (essentially those without a public hearing) had to be issued by the planning director. This appears to be the applicable section. I would appreciate it if you would clarify whether you, or Jeremy Tejerian, served as the planning director on January 5, 2012.

I am looking forward to hearing from Jeremy Tejerian regarding any further extension of the permits beyond 2/29/12 and the other matters that I discussed in my June 12, 2013 letter.

By the way, after putting in the foundation and framing, the developer stopped work on this residence. The heavy equipment and the workmen are gone. Five years and no end in sight.

Thank you for your consideration.

A handwritten signature in black ink that reads "Richard S. Kohn". The signature is written in a cursive, slightly slanted style.

Richard S. Kohn

From: Lai, Thomas <TLai@marincounty.org>
To: 'brendakohn@aol.com' <brendakohn@aol.com>
Subject: RE: 36 Starbuck
Date: Fri, Jun 21, 2013 12:02 pm

Hi Richard,

Jeremy and I spoke about this, and he will need to check with Building to see about the circumstances surrounding that final 2 -year extension that was granted. He will also respond to you. The at risk letter is a separate issue, having to do with initiating the review of the building permit while the appeal period for the original Coastal Permit has not expired. In other words, the at risk letter had nothing to do with the building permit extensions.

-Tom

From: brendakohn@aol.com [<mailto:brendakohn@aol.com>]
Sent: Friday, June 21, 2013 9:59 AM
To: Lai, Thomas
Subject: 36 Starbuck

Hi Tom

I would appreciate if you could address some issues regarding the extension of the permit on the 36 Starbuck project from 2/29/11 to 2/29/12. Please see the attached letter. To date, I have not received any reply from Jeremy Tejerian. Perhaps you could remind him. Thank you for your consideration.

Richard Kohn

Email Disclaimer: <http://www.marincounty.org/main/email-disclaimer>

Jeremy Tejirian, AICP
PLANNING MANAGER

County of Marin
Community Development Agency
3501 Civic Center Drive, Suite #308
San Rafael, CA 94903
415 473 3798 T
415 473 7880 F
CRS Dial 711
JTejirian@marincounty.org

From: brendakohn@aol.com [mailto:brendakohn@aol.com <mailto:brendakohn@aol.com?>]
Sent: Monday, July 01, 2013 7:45 AM
To: Tejirian, Jeremy
Cc: Lai, Thomas; Kelley, Bill
Subject: 36 starbuck

Mr. Tejirian,

To be clear, I have sent two letters regarding 36 Starbuck to Tom Lai dated June 12 and June 21. Since I copied you on the first letter, I am attaching the June 21 letter just in case you have not seen it. However, as I understand an email from Tom Lai dated June 21, he has referred the entire matter to you.

I have previously requested a copy of the "letter of risk" which I could not find in the file. In response to emails from Tom on June 21 suggesting that I could either look in the file or wait to hear from you, I dropped by Room 308 last Thursday. Again, I came away empty handed. The office staff could not locate it either. I herewith renew my request that you send me a copy of the "letter of risk" so that I can see for myself what bearing it might have on the issues that I have raised.

My efforts to find out how several extensions of the coastal permit for 36 Starbuck came to be granted began on June 12. I am giving the CDA the opportunity to clarify what happened as it appears that the applicable regulation was not followed. If there is an explanation I would appreciate it if you would put it in writing. Since my two letters identify the issues I would like the CDA to address, I think any telephone conversation would be more productive after you respond. A written response will clarify the facts and avoid any chance of a misunderstanding.

Time is of the essence. In order to ensure that there will be adequate time for consideration by the Board of Supervisors, in the near future I plan to submit comments on section 22.70.120 of the draft LCP implementation plan. Please get back to me as soon as possible.

Thank you for your consideration.

Richard Kohn
Email Disclaimer: <http://www.marincounty.org/main/email-disclaimer>

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Bridger Mitchell, PO Box 31, Inverness CA 94937

From: Lai, Thomas <TLai@marincounty.org>
To: brendakohn <brendakohn@aol.com>
Subject: Automatic reply: 36 starbuck
Date: Mon, Jul 1, 2013 9:45 am

Thank you for the email. If your message requires a reply, I will respond after I return to the office on Monday, July 8, 2013.

If you have a general zoning or planning question, please contact the customer service desk at (415) 473-6269 or by email at cdaplanning@marincounty.org. The customer service desk is open from 8:00am to 4:00pm Mondays through Thursdays.

Regards,
-Tom Lai
Marin County Community Development Agency
(415) 473-6292

July 4, 2013

5 Ahab Drive
Muir Beach, CA 94965

Tom Lai
Deputy Director
Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

Dear Tom,

Under the California Public Records Act Sec. 6250 et seq., I am requesting a copy of the so-called "letter of risk" referred to in the public file for 36 Starbuck Drive in Muir Beach.

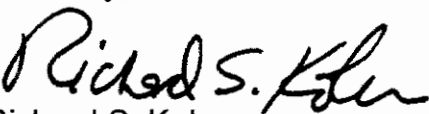
If there are any fees for searching or copying this document, please inform me if the cost will exceed \$5.00. However, I would also like to request a waiver of all fees in that disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of the internal workings of the Community Development Agency. This information is not being sought for commercial purposes.

The California Public Records Act requires a response within ten business days. If access to the records I am requesting will take longer, please contact me with information about when I might expect a copy or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,


Richard S. Kohn

cc. Brian Crawford, Executive Director
Jeremy Tejirian

July 10, 2013

5 Ahab Drive
Muir Beach, CA 94965

Kevin Kahn
Coastal Planner
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Dear Kevin,

I understand that pursuant to the Coastal Commission's Strategic Plan, changes to the implementation plan for the LCP are being considered by the Coastal Commission, which will determine which provisions of the Development Code should be applicable to the coastal zone. See Attachment 2, page 2, CDA July 2, 2013 Memorandum for July 30, 2013 Hearing on Submittal to CCC." (Online)

At present, extensions of coastal development permits (CDPs) that have previously been granted are governed by Interim Zoning Ordinance Section 22.56.120I. The proposed LCP implementation plan, section 22.70.120, significantly waters down the requirements. Furthermore, it fails to cure a defect in the current regulation regarding appeals to the California Coastal Commission. Both the old regulation and the proposed revision provide for public notice of a *request* for an extension. Both old and new provisions provide for an appeal to the Coastal Commission within ten days of the decision allowing an extension. But neither the old nor new sections provide for notice to the public of the *decision*. Without notice, how can members of the public exercise their right to appeal?

Thus, the appeal to the Coastal Commission is illusory. This omission could be cured by the addition of language incorporating Title 22 section 22.70.090 ("Notice of Final Action"), as long as the public notice of the *request* instructs interested persons to request notice of the Director's decision. Section 22.70.090 should be amended to allow email notice if a member of the public requests email notice. Otherwise, the effective date of the decision should be seven days after the decision to allow for U.S. Mail delivery. The effective date should trigger the 10 day period for filing an appeal.

There are other problems with proposed section 22.70.120 which I discuss below. Furthermore, the best drafted regulation is meaningless if the agency ignores it, which appears to be the case with requests for extensions. I discuss that below.

The existing provision states that coastal development permits expire in two years. Prior to the expiration of the CDP, the developer may apply for an extension for up to four years. Proposed section 22.70.120 eliminates these time periods as well as the requirement that a request for an extension be made prior to expiration. Consequently, extensions of coastal development permits would be entirely open-ended; can be applied for at any time (even after the original permit has expired); and for any period of time, e.g., twenty years. Obviously, some constraints on granting extensions are necessary. The existing requirements should be maintained except that CDPs should expire after one year—not two—and requests for extensions beyond the initial year should be limited to an additional year or two—not four. It should not take six years to commence work. No reason has been advanced by the CDA for eliminating any time limitations for permit extensions.

Why is this important? A significant consequence of allowing open-ended extensions by the CDA is that the original decision to grant the permit is frozen in time. Over time, old residents may move away and new residents move in. They may have a different attitude towards a planned project. As drafted, section 22.70.120 means that new residents would be bound by decisions that were made perhaps years ago. Putting a time limit on the duration of extensions ensures that new residents, assuming they are given proper notice, would have an opportunity to be heard if they wish to oppose the project. And if a developer cannot commence work on the project within a reasonable time, s/he can always apply for a new permit.

This is not a hypothetical concern as the case of 36 Starbuck Drive in Muir Beach, which I discuss below, amply demonstrates. In that case, extensions were granted (apparently in violation of Section 22.56.120I) that resulted in a five year hiatus between the approval of the original building and coastal development permits and the commencement of construction.

An additional issue concerns the criteria for granting CDP extensions. Pursuant to the proposed rule, the only criterion for granting an extension is "a finding that the project continues to be in conformance with the requirements and objectives of the Marin County LCP." More guidance should be given and there should be a written decision. In addition to whether the project continues to comply with the LCP, relevant factors might include:

- 1) Extenuating circumstances that prevented construction from commencing within the original period
- 2) How many extensions have been granted in the past
- 3) Will the project be completed in a reasonable time
- 4) Was there any opposition after notice is given to the public
- 5) Whether a contractor has been hired and is ready to build
- 6) Have any changes been made to the plans that were approved

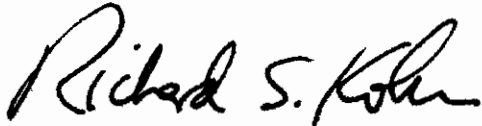
The problem that the foregoing suggestion addresses is that a developer could obtain a coastal development permit but wait years to commence construction. Extensions should not be granted like the medieval practice of selling indulgences for a fee. In fact, the existing regulation recognizes that there should be time limits beyond which extensions will not be granted, even if the project continues to be in compliance with the letter and spirit of the LCP. The CDA has not given any reason for allowing CDPs to be extended *ad infinitum*.

Which brings me to the issue I raised in my introductory paragraph: What do you do if the Agency charged with enforcing the regulations just ignores them? In January 2013, bulldozers and other heavy equipment suddenly appeared at the vacant lot at 36 Starbuck Drive in Muir Beach and started construction of an enormous residential building. Research showed that the building permit and coastal development permit had been granted by the CDA in 2008. Several extensions were granted over the years. Of particular note is a retroactive extension granted in 2012 that appears to be in flagrant violation of Section 22.56.1201 (See my letters to Tom Lai dated June 12, 2013 and June 21, 2013 (**Exh. A and B**)). In any event, this was supposed to be the final extension. Notwithstanding, as reflected in a cryptic note on a Building Permit form, it appears that the permit was extended to 2014, with no documentation to support it in the public file. These untimely extensions, considered without notice to the public, effectively deprived the Coastal Commission of its appellate jurisdiction.

Since June 12, 2013 I have unsuccessfully sought a written explanation from CDA of how the building permit and the coastal development permit for 36 Starbuck Drive came to be extended. See **Exh. C**. I respectfully request that the Coastal Commission staff follow up with the CDA to ascertain the facts. Meanwhile, I have submitted a request under the California Public Records Act, Sec. 6250 et seq. to obtain a copy of the so-called "letter of risk", referred to in the file.

In this connection, Chapter 22.110.060 currently provides that "Any action by the Agency that is in conflict with any provision of this Development Code shall be void. (Ord. 3380 Exh.B (part), 2003." This provision should be incorporated into the implementation provisions of the LCP applicable in the coastal zone.

Also, consideration should be given to a provision that penalties be assessed if a project is not completed within a reasonable period of time. This would address the problem that arises when a developer does the bare minimum of work to meet permit deadlines and then just lets the project sit there, as may be the case with 36 Starbuck Drive.

A handwritten signature in black ink, reading "Richard S. Kohn". The signature is written in a cursive, flowing style.

Richard S. Kohn

cc:Jack Liebster
Tom Lai

From: Lai, Thomas <TLai@marincounty.org>

To: 'brendakohn@aol.com' <brendakohn@aol.com>

Cc: Tejirian, Jeremy <JTejirian@marincounty.org>; Kelley, Bill <BKelley@marincounty.org>; Lai, Thomas <TLai@marincounty.org>

Subject: RE: 36 Starbuck

Date: Wed, Jul 10, 2013 3:11 pm

Attachments: ord_3524.pdf (76K)

Hi Richard,

Please accept my belated response to your 6/21/13 letter, as I have been out of the office. In that letter, you questioned the basis for my request to extend the building permit at 36 Starbuck Drive, Muir Beach (from 2/29/11 to 2/29/12) when the Coastal Permit would have expired on 2/27/11. You question how this meets the requirements of Section 22.56.120I which provides procedures for extending a Coastal Permit if a building permit has not been issued during the life of the Coastal Permit.

In my 1/5/12 email to Bridgette Choate, I noted that Board of Supervisors Ordinance 3524 provided an automatic 1 year extension to Planning permits. That action extended the Coastal Permit by 1 additional year, (from 2/27/10 to 2/27/11). In my review of the timeline, actions by the County to continue to process and review the building permit before, and even after 2/27/11, show that the County did not consider the building permit and Coastal Permit to have expired. The applicant continued to proceed in a good faith manner to secure the building permit. These include the following actions:

Acceptance of building permit revisions by the Public Works department in 11/10.

Approval of the building permit plan check by the Building and Safety Division in 12/10.

Approval of the building permit plan check by the Environmental Health Services Division in 12/10.

Approval of the building permit plan check by the Public Works department in 6/11.

As the Planning Department does not have a means to monitor the progress of the building permit review by other County departments after the building permit application has received Planning approval (that occurred on 2/29/08), Planning staff would not have known that review of the building permit continued to occur after the expiration of the Coastal Permit. Had we known that a building permit would not have been issued prior to the expiration of the Coastal Permit, we could have advised the applicant to submit an extension to the Coastal Permit. Having been brought in to review the sequence of actions, I requested the Building Department to grant an extension to the building permit application without a Coastal Permit extension.

With regard to the other question you raised in your original letter (relating to subsequent building permit extensions), please contact Jeremy to discuss when he returns to the office next week.

Regards,

ORDINANCE NO. 3524

ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS
EXTENDING CERTAIN TIME LIMITS FOR DEVELOPMENT PERMITS AND WAIVING
CERTAIN AFFORDABLE HOUSING IMPACT FEES FOR A SPECIFIED PERIOD

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN ORDAINS AS FOLLOWS:

SECTION I. Notwithstanding any provision of the Marin County Code or any other ordinance to the contrary, land use and development permits that are scheduled to expire within the 2009-10 fiscal year (July 1, 2009 to June 30, 2010) shall have one additional year added to the effective date of the approval before they expire and become void.

SECTION II. Notwithstanding the provision of Ordinance 3500, and during the period from July 1, 2009 to June 30, 2010, the Affordable Housing Impact Fee adopted by said ordinance shall not apply where the conditioned floor space, inclusive of all structures, does not exceed 4,000 square feet.

SECTION III. Effective Date. This ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the supervisors voting for and against the same in the INDEPENDENT JOURNAL, a newspaper of general circulation published in the County of Marin.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 11th day of August 2009 by the following vote:

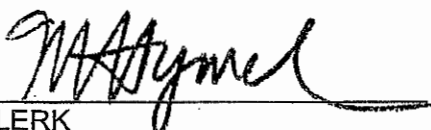
AYES: SUPERVISORS Susan L. Adams, Steve Kinsey, Charles McGlashan,
Judy Arnold, Harold C. Brown, Jr.

NOES: NONE

ABSENT: NONE


PRESIDENT, BOARD OF SUPERVISORS

ATTEST:


CLERK

July 11, 2013

5 Ahab Drive
Muir Beach, CA 94965

Tom Lai
Deputy Director
Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

Re: 36 Starbuck Drive, Muir Beach, Assessor's parcel 199-272-04

Dear Tom,

Thank you for getting back to me. Because the issues that I have raised involve coastal development permits and because the Board of Supervisors is considering relevant changes to the LCP, I think that the Coastal Commission needs to be part of this conversation.

We are in agreement that the coastal development permit (CDP) for 36 Starbuck Drive had expired at the time you requested the Building Department to grant an extension to February 29, 2012. You state that various departments had acted *as though the building or coastal development permits had not expired* and that "Planning staff would not have known that review of the building permit continued to occur after the expiration of the Coastal Permit." However, Bridget Choate clearly knew that the permits had expired when she notified the developer on January 4, 2012 that Bill Kelley could not grant an extension. It was your decision to override that decision, so I do not think it is possible to explain this as a failure of communication between departments. Even your January 5, 2012 memorandum to Bridgette Choate recognizes that the building permit expired on February 29, 2011, otherwise an extension would not have been required.

What is troublesome, indeed unacceptable, is the notion that decisions regarding extensions of CDPs are not made by planning staff who have the responsibility for applying the regulations according to the facts, but by the actions of other departments that are out of the loop. Bridgette Choate and Bill Kelley got it right. Furthermore, you have not clarified whether you were the Planning Director at that time and even authorized to make the decision to override them.

If, as you say, the developer had been instructed to submit a request for an extension of the CDP, then the requirements of section 22.56.120I would have been triggered. An extension could not have been granted because the CDP had already expired. The developer would have had to start the process all over again. Even if that were not the case, public notice of the extension request would have to have been given. Because the proposed development project is clearly out of character with the small scale residential character of Muir Beach, there is a good chance that this project could have been substantially modified or stopped if public notice had been given.

Every time the CDA approves one of these monster homes it creates a precedent for the next person who comes along and wants to build a monster home. The safeguards that are built into section 22.56.120I recognize that there is a public interest involved when these decisions are made. The Agency's failure to follow the rules is changing the historic character of Muir Beach—and not for the better. I invite you to visit the site of 36 Starbuck to see for yourself.

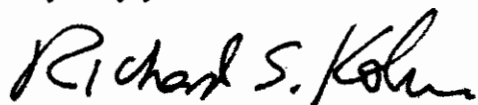
You point out that Ordinance No. 3524 provided an automatic 1 year extension to Planning Permits. With regard to the expiration date of the CDP, it doesn't really matter whether it was February 27, 2010 or February 27, 2011. It had clearly expired when the January 2012 extension was granted. I think that it is significant that in extending land use and development permits for one year, Ordinance No. 3524 states that such permits "shall have one additional year added to the effective date of the approval *before they expire and become void*. So, even under the ordinance as you interpret it to include CDPs, the CDP in this case was void.

I find it extraordinary that Jeremy Tejjirian has still not responded to me in writing regarding what appears to be a further extension that was approved to 2014, or regarding my obtaining a copy of the letter of risk. On *June 21* you emailed me that "Jeremy and I spoke about this, and he will need to check with Building to see about the circumstances surrounding that final 2-year extension that was granted. He will also respond to you." Given the fact that your extension—which was supposed to be the final extension—expired on February 29, 2012, it is still a mystery how another extension came to be made. I look forward to Jeremy's return from vacation so that the facts surrounding these issues can at last be established.

The immediate question is what the CDA plans to do about 36 Starbuck Drive. Construction did not commence until January 2013, long after the extension you approved had expired. It does not seem likely that the later extension was lawful. The permits granted by the CDA are void. See Development Code sec. 22.110.060 and Ordinance No. 3524. The construction has halted as abruptly as it began. As I suggested in an email to Jeremy on July 3, appropriate enforcement action should be taken. At the very least, any aspect of the building plans that have not been started should be prohibited.

The larger question, which I have addressed in my July 10, 2013 letter to Jeremy Kahn, is what action the Coastal Commission is prepared to take to protect its appellate jurisdiction over decisions by local government to approve extensions of CDPs. The current proposal by CDA staff as set forth in Section 22.70.120 is completely inadequate.

Very truly yours,

A handwritten signature in black ink that reads "Richard S. Kohn". The signature is written in a cursive, flowing style.

Richard S. Kohn

cc. Kevin Kahn
Jack Liebster

July 15, 2013

5 Ahab Drive
Muir Beach, CA 94965

Supervisor Kathrin Sears
Marin County Board of Supervisors
3501 Civic Center Drive
Room 329
San Rafael, CA 94903-4157

Re: LCPA July 30, 2013

Dear Supervisor Sears,

Over the course of several years, as members of the public and long time residents of Muir Beach, we have submitted numerous comments in connection with the process of amending the LCP. Our interest arises out of our participation as plaintiffs in *Hyman, et al v. California Coastal Commission*. Among other things, the decision by the Superior Court reinvigorated the visual resource provisions of the LCP for Unit I. We have submitted written comments regarding retention of the community plans (June 10, 2013), visual resources (July 10, 2013) the proposed *de minimis* procedure (June 10 and 21 and July 10, 2013), and the procedure for extending coastal development permits beyond their expiration date (June 12 and 21, July 10 and 11, 2013). We have requested that our letters be made part of the public record. We respectfully request that you take those comments into consideration as you deliberate revisions to the LCPA on July 30.

In addition to substantive content issues, we have learned that the senior CDA staff has failed to enforce the existing section, Interim Zoning Ordinance Sec. 22.56.120I, dealing with extensions of coastal development permits. The case of 36 Starbuck Drive in Muir Beach is illustrative. The responsibility for making sure that his/her permits have not expired rests with the developer. It is not the CDAs role to bail out developers in derogation of the regulations. Yet, as shown by the 36 Starbuck record, in disregard of the regulation, Deputy Director Tom Lai overruled a staff recommendation and granted an untimely extension where it was clear that the permits had expired.

In addition, that case demonstrates that even though the current regulation requires that public notice be given when permit extensions are requested, that requirement was ignored. Without notice to the public, the right to appeal to the California Coastal Commission is illusory. These circumstances give rise to the question of who is responsible for ensuring that the CDA enforces the provisions of the LCP. What is the point of creating regulations if the CDA is not going to enforce them?

This is important because developers are allowed to take out permits but not begin construction for many years. The purpose of the strict requirements for obtaining extensions and for giving public notice of extension requests in Interim Zoning Ordinance sec. 22.56.120I is to allow members of the community to oppose extensions both before the CDA and, in appropriate cases, the Coastal Commission. Failure to apply the regulation means that the public is being cut out of the process and the appellate jurisdiction of the Coastal Commission nullified.

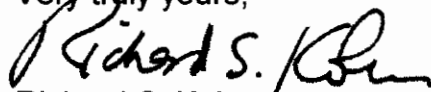
As documented in our correspondence, our efforts to determine how an additional extension came to be granted from February 29, 2012 to 2014 have been stymied. We began requesting information on that issue on June 12, 2013 and had not received a written response by July 10, 2013, when Tom Lai advised us that Jeremy Tejrjian (who has been tasked with responding) had left for vacation. This is not a complicated question to answer. Also, the CDA has not complied with our request for a copy of a so-called "letter of risk" that is referred to in the public file but is not in the public file. We could not find any statutory authority for a "letter of risk" and no one in the planning office had ever seen one. This has necessitated our filing a California Public Records Act request to obtain this document.

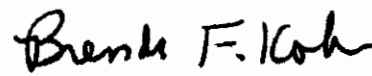
We herewith request your assistance in ascertaining the facts concerning how the permit extensions for 36 Starbuck Drive came to be granted beyond February 29, 2012, which was supposed to be the expiration date of the final (albeit unlawful) extension. This case should be viewed in the larger context of whether the CDA is ignoring the procedural requirements for obtaining permit extensions in this and other cases and what can be done about it. It should be of great and immediate concern that Section 22.70.120 of the proposed Implementation Plan for the LCPA significantly waters down the protections contained in the existing regulation.

Also, thought needs to be given to what remedial mechanism is available when the CDA violates applicable regulations.

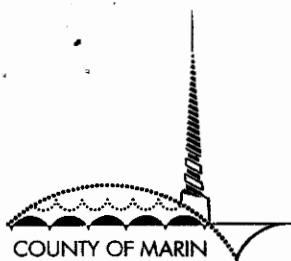
Thank you for your consideration.

Very truly yours,


Richard S. Kohn


Brenda F. Kohn

cc. Brian Crawford, Exec. Dir.
Tom Lai, Deputy Dir.
Jack Liebster, Prin. Planner
Kevin Kahn, CCC
Marin County Supervisors (5)



COMMUNITY DEVELOPMENT AGENCY
BUILDING AND SAFETY DIVISION

18 July, 2013

Richard S. Kohn
5 Ahab Drive
Muir Beach, CA 94965

Dear Mr. Kohn:

Tom Lai asked me to respond to your request for a copy of our so-called "letter of risk" used during the permit processing for PN 133220 for construction of a new single family dwelling for Mr. Mamone at 36 Starbuck Drive.

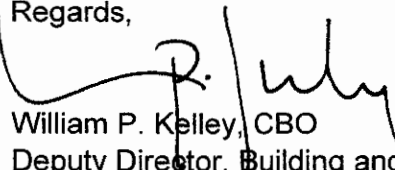
I have carefully reviewed our paper records associated with this permit on the off-chance I might be able to fulfill your request. However, because the purpose for our "letter of risk" is limited to the plan review period, they are routinely discarded once Planning has approved the application and the permit is ready to issue.

I have included a blank copy of our Authority to Proceed with Plan Review form (aka our letter of risk), for your review. This is the same form we would have required Mr. Mamone to sign in order to proceed with his Building & Safety plan check prior to receiving Planning approval.

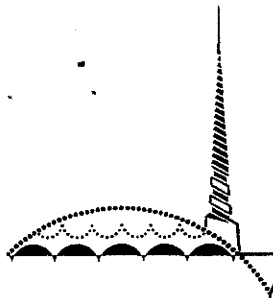
As you can see, the purpose of this form is to clarify for the project applicant that receiving Building & Safety plan check approval does not guarantee construction permit approval when we are asked by the applicant to provide concurrent review/approval with Planning.

I hope this is helpful.

Regards,


William P. Kelley, CBO
Deputy Director, Building and Safety Division

Cc Brian Crawford
Tom Lai
Jeremy Tejriran



MARIN COUNTY

COMMUNITY DEVELOPMENT AGENCY

ALEX HINDS, DIRECTOR

WILLIAM KELLEY, CBO, DEPUTY DIRECTOR

BUILDING AND SAFETY DIVISION

Authority to Proceed with Plan Review

I, _____, am the applicant of record for building permit application number _____ to be performed at the following address:

_____ I understand by my initials and signature I am hereby requesting Building & Safety to proceed with a complete plan review for my project.

_____ I understand there are additional reviews that must be performed and approved by programs, divisions, agencies or authorities other than Building & Safety before my permit may be issued, and I understand your agreeing to proceed with my Building & Safety plan review does not waive these other reviews or approvals, nor does it imply or express any guarantee for permit issuance.

_____ I understand in the event my permit is not issued, I will not be entitled to a refund of my plan review fee.

_____ I understand by my initials and signature I willingly assume any and all risk or loss associated with proceeding with this request on my behalf.

Applicant signature: _____

Date: _____

Project planner consent: _____

Date: _____

Building Official consent: _____

Date: _____

July 4, 2013

5 Ahab Drive
Muir Beach, CA 94965

Tom Lai
Deputy Director
Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

Dear Tom,

Under the California Public Records Act Sec. 6250 et seq., I am requesting a copy of the so-called "letter of risk" referred to in the public file for 36 Starbuck Drive in Muir Beach.

If there are any fees for searching or copying this document, please inform me if the cost will exceed \$5.00. However, I would also like to request a waiver of all fees in that disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of the internal workings of the Community Development Agency. This information is not being sought for commercial purposes.

The California Public Records Act requires a response within ten business days. If access to the records I am requesting will take longer, please contact me with information about when I might expect a copy or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,



Richard S. Kohn

cc. Brian Crawford, Executive Director
Jeremy Tejirian

Land Development	Building and Safety	Environ./Health	Planning Dept.
Sbmtl Rqst sent 8/20/08, -DN	BC	sent 3/5/08	tejirian--letter of
rev. 11-18-10	OWNER HAS LETTER OF RISK ON FILE NEEDS TO FOR COASTAL REV. (BEST PROGRAM)	3/11/08 STOPPED in BHS, letter sent - JS	risk approved
apr 06/17/11	on khf's shelf	8/5/08 BLDG PERMIT approved w/HOLD for septic final. JS	
	MODIFICATION ARE REQ'D.-MARCH 25,2008 BY KHF.	APPROVED @ DEC.20, 2010 BY KHF.-BACK TO	
	OK to extend application till 2/29/10. --wpk rec		
	rev. 3-4-10		
	OK to extend application till 2/29/11. --wpk		
	MODIFICATION ARE REQ'D.-APRIL 21,2010 BY KHf		
	rev 6-17-2010 rev (design change?) rcvd		
	11-18-10 MS		
	apr.12/20/10		

August 19, 2013

5 Ahab Drive
Muir Beach, CA 94965

Tom Lai
Deputy Director
Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

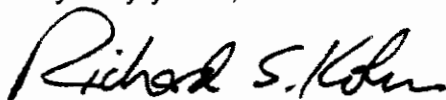
Re: 36 Starbuck Drive, Muir Beach, Assessor's parcel 199-272-04

Dear Tom,

It has been over two months since I first wrote to you seeking an explanation of how the building and coastal development permit extensions for 36 Starbuck Drive came to be granted. As I pointed out in my letters dated June 21 and July 11, 2013, it is clear that the extensions to February 29, 2012, issued without public notice and in violation of the applicable procedural requirements, were void. I have never received the promised response from Jeremy Tejrjian regarding the cryptic notation in the Building Permit Form dated 2/21/12 "OK to Extend Application to 2/14/2014."

In the absence of an explanation, there only two possibilities: Either someone granted an extension in violation of section 22.56.1201 and in contradiction of your statement that the extension to 2/29/12 was the *final* extension. Or, the permits were not extended beyond 2/29/12, i.e., what does it mean that the *application* was extended to 2014? (The only box checked is "Septic") In either case, the permits are void and the construction that commenced in January 2013 was illegal. So, why has the property not been red tagged and some enforcement action commenced by the CDA? The building site is a trash heap. Other projects in Muir Beach, far less calamitous to the environment, have been red tagged. Again, I urge the Agency to take appropriate enforcement action, belated though it may be.

Very truly yours,



Richard S. Kohn

cc.

Exec. Dir. Brian Crawford
Supervisor Steve Kinsey
William P. Kelley CBO

September 20, 2013

5 Ahab Drive
Muir Beach, CA 94965

Supervisor Steve Kinsey
Marin County Board of
Supervisors
3501 Civic Center Drive
Room 329
San Rafael, CA 94903-4157

Dear Supervisor Kinsey,

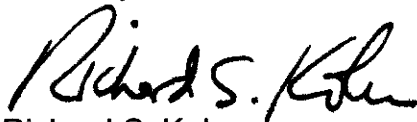
Brenda and I would like to thank you for taking the time to meet with us yesterday. We thought it was a very productive meeting. We are hopeful that the CDA will now address all of the facts concerning 36 Starbuck Drive.

In light of our discussion that the revised regulation adopted by the BOS regarding extensions of permits is completely open-ended, we are taking the liberty of enclosing a copy of a letter addressed to Kevin Kahn at the California Coastal Commission dated July 10, 2013 in which we discuss that and other relevant issues.

Apropos of our conversation regarding extending the Diaz Ridge Trail, I mentioned a letter that was published in the Pacific Sun (August 10-September 5, 2013 edition). I am enclosing a copy of that letter for your consideration.

We appreciate your interest in the issues we have raised. Thank you again for meeting with us.

Sincerely,



Richard S. Kohn

Encl. (2)

October 14, 2013

5 Ahab Drive
Muir Beach, CA 94965

Supervisor Steve Kinsey
Marin County Board of Supervisors
3501 Civic Center Drive
Room 329
San Rafael, CA 94903

Re: 36 Starbuck Drive

Dear Supervisor Kinsey,

It has been several weeks since our meeting in your office on September 19. Our understanding was that you were going to follow up with the CDA to ascertain the facts regarding the permit extensions granted to the developer of 36 Starbuck Drive. We had hoped that the CDA would be more responsive to your inquiry than it has been to ours.

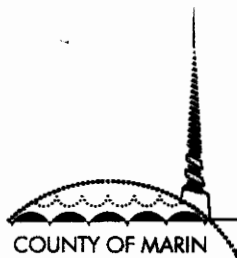
To date we still have not received any reply to our correspondence with the CDA regarding whether an extension was granted beyond February 29, 2012. The property has still not been red tagged although it is clear that any such extension would be void because of the CDA's failure to comply with its own regulations. (See my letter to Tom Lai dated August 19, 2013 which was copied to you). We would appreciate it if you would advise us as to the results of your intervention.

Thank you for your consideration.

Very truly yours,

 
Richard and Brenda Kohn

Encl. (1)



COMMUNITY DEVELOPMENT AGENCY

Brian C. Crawford
DIRECTOR

Marin County Civic Center
3501 Civic Center Drive
Suite 308
San Rafael, CA 94903
415 473 6269 T
415 473 7880 F
415 473 2255 TTY

Building and Safety
Environmental Health Services
Planning
Federal Grants
Redevelopment Agency

www.marincounty.org/cda

December 17, 2013

Mr. Richard Kohn
5 Ahab Drive
Muir Beach, CA 94965

SUBJECT: 36 Starbuck Drive, Muir Beach; Assessor's Parcel 199-272-04

Dear Mr. Kohn:

I am writing as a follow-up to your letters of June 12 and July 4, 2013 and Tom Lai's July 10, 2013 email response regarding the Community Development Agency's processing of a Coastal Permit and building permit for a new single-family home at the above property. I have also spoken more recently about this particular project with Supervisor Kinsey, who is well aware of your interest in the problems that arose during the sequence of permit approvals, as am I.

My intent in writing is not to repeat the chronology of County permit approvals and related actions already covered in Tom's email to you, but rather to make several points for what they may be worth to you.

First, the expiration of the Coastal Permit before issuance of the building permit was the direct result of the Agency not having an effective system in place to avoid the lapsing of the Coastal Permit after the building permit was submitted and subject to substantive review, but more importantly prior to its approval. The different divisions of the Agency have been operating with different computerized tracking systems, some of which are antiquated and lacking in their ability to communicate.

Second, the good news is the Agency is in the process of installing a new automated permit tracking system for the three major divisions involved in processing development permits that should help the County avoid the type of problems that arose in the 36 Starbuck project.

Third, despite the challenges we face in relying upon substandard tracking systems, we believe the disconnect between Coastal Permit and building permit approvals for the project at 36 Starbuck is an aberration rather than a common occurrence.

Fourth, notwithstanding the fact the Coastal Permit had expired before the building permit was issued, the County did issue a building permit for the project and the property owner relied in good faith upon that entitlement to begin work and make substantive improvements authorized by the building permit. For this reason, staff

has taken the position that the project has been vested in accordance with State law, although we acknowledge that others may have opinions to the contrary.

Fifth and finally, I understand the property owner has recently called the County Building and Safety Division for inspections of work at the project site, and I hope this is indicative of the owner's intent to complete the approved work without further significant delays.

Sincerely,



Brian C. Crawford
Director

cc. Supervisor Steve Kinsey
Tom Lai, Assistant Director

December 29, 2013

5 Ahab Drive
Muir Beach, CA 94965

Brian C. Crawford
Director
Community Development Agency
3501 Civic Center Drive
Room 308
San Rafael, CA 94903

Re: 36 Starbuck Drive, Muir Beach

Dear Mr. Crawford,

Thank you for your belated reply to my inquiries of last June and July. Regrettably, I do not regard your letter as responsive to the questions I raised because you do not address the facts that are at the heart of the matter.

My concerns are: (a) the Agency's permitting the project to proceed without a Coastal Development Permit (CDP); (b) its failure to apply the public notice requirements of zoning regulation 22.56.120I; (c) whether the building permit was extended to 2/14/14; and (d) favoritism shown to this developer including the lack of enforcement to halt the illegal construction.

Everyone agrees that the CDP originally expired on 2/27/10. You blame an inadequate tracking system "to avoid the lapsing of the Coastal Permit after the building permit was submitted..." However, agency staff were well aware that the CDP had lapsed. In her email to Michael Mamone dated January 4, 2012, 12:01 p.m., Bridgette Choate advised him that the coastal permit had expired. Tom Lai's email to Bridgette Choate dated January 5, 2012, 9:10 a.m. states that the coastal permit "would expire" on 2/27/10. (In an email to me dated 7/10/13, Mr. Lai states that by virtue of BOS Ordinance No. 3524 the expiration date of the coastal permit was extended by one year to 2/27/11, but it doesn't make any difference to my analysis).

I do not see anything wrong in the CDA implementing a tracking system that would caution all developers as a courtesy that their permit or permit applications are due to expire. But after a permit has expired, it is not the CDA's job to bail a developer out by giving him a pass. It is improper for an agency to pick and choose who it will favor and in the process violate its governing regulations that are intended to ensure public input in whether an extension should be granted. That is what happened here. Nothing in your letter gives any comfort that this has not happened in other cases or could not happen again. Any tracking system may fail.

It was the developer's responsibility to make sure that his permits had not expired. In overruling Bill Kelley's decision not to allow an extension of the building permit application, in deference to the developer, Tom Lai allowed the process to go forward *without a CDP* and in derogation of the timing and public notice requirements of Zoning Regulation 22.56.120I. (In an email to me dated 7/10/13, Mr. Lai states: "I requested the Building Department to grant an extension to the building permit application without a Coastal Permit extension.") If he had applied the regulation, none of the extensions could have been granted because the request was untimely. Even if that were not so, extensions could not have been granted without giving the public an opportunity to oppose the extensions and appeal to the California Coastal Commission.

You state that you are not going to revisit the chronology covered by Tom Lai's email to me, but you do not address my questions regarding what happened after that: in particular, the cryptic note in the file "o.k. to extend application to 2/14/14." When Tom Lai granted the 2012 extension of the building permit application (overruling Bridgette Choate and Bill Kelley) he stated that it was a "final, one year extension." The file contains no written evidence that a further extension of the permit was even requested or fees paid. I have repeatedly asked whether a further extension was in fact granted and, if so, by whom?

Tom Lai advised me that he was no longer involved after the request to extend the permit to February 2012 and that Jeremy Tejrjian would respond to me. Mr. Tejrjian has never answered my simple question. Of course, in violation of Zoning Ordinance 22.56.120I, no public notice of any such an extension was ever given. As noted above, construction did not commence until January 2013 long after the "once and final" extension granted by Tom Lai expired on 2/29/12. If a further extension was granted, it had nothing to do with an ineffective tracking system but reflects deliberate decisions made by senior members of the CDA staff to extend the permit application yet again. And during all of this time, staff were well aware of the fact that the coastal permit had long since expired.

You state that the "project has been vested in accordance with state law." What state law? How can a project be vested when no valid Coastal Development Permit or building permit exist? In her email dated January 4, 2012, Bridgette Choate states: "The design review approval and the coastal permit approval have expired. The permit was never vested."

Your assertion that this was an isolated occurrence underscores the fact that for some reason this developer's project was given special consideration by not applying the rules that are applied to everyone else regarding the need to have a coastal permit and extensions of development permits. Clearly a double standard has been applied as evidenced by the fact that over the years other smaller unpermitted projects in Muir Beach have been red tagged. Such favoritism is improper and presumably illegal.

You state that the developer has recently requested an interim inspection which you interpret as a sign that the project may be completed before too long. The foundation and framing are in and septic and some windows have been installed but this illegal project has a long way to go. Our objective in bringing these matters to your attention is not to hasten its completion but to stop it as required by law. (I note that no building permit has been posted at the construction site so it is unclear what permit is even in effect) The fact that the CDA has been complicit in this fiasco is not a reason to ignore the applicable laws regarding coastal development permits and building permits, specifically Zoning Ordinance 22.56.120I.

The consequence of the CDA's actions has been the erection of a mega- mansion that is out of character with the small scale residential character of Muir Beach. Most assuredly, the next developer who wants to build a monster home will cite the CDA's approval of 36 Starbuck as a precedent. Since 2008, the public has been excluded from the opportunity to comment on the permit extensions, a protection built into Zoning Ordinance 22.56.120I, including the right to appeal to the California Coastal Commission. Five years after the initial approval, this project should be red tagged so that the public may be given a meaningful opportunity to comment. Perhaps aspects of this monstrous development can still be trimmed to lessen its negative impact on the environment and the community.

Very truly yours,

A handwritten signature in black ink that reads "Richard S. Kohn". The signature is written in a cursive, flowing style.

Richard S. Kohn

cc. Supervisor Steve Kinsey
Tom Lai, Assistant Director
William Kelley, CBO, Deputy Director, Building and Safety Division

BUILDING PERMIT MARIN COUNTY BUILDING AND SAFETY DIVISION		Permit Number 133220 Date 02/21/2012	APN 199-272-04 Received 10/01/2007	Zone 0 Item# 0	PIN NO. 500437 Ckd By KHF
<u>JOB ADDRESS</u> 36 Starbuck Dr Number Street City / Zip Muir Beach Nearest Cross Street Seacape			Type of Improvement <input checked="" type="checkbox"/> NEW <input type="checkbox"/> ADDITION <input type="checkbox"/> REMODEL <input type="checkbox"/> REV. <input type="checkbox"/> SEWER <input checked="" type="checkbox"/> SEPTIC Use Of Structure (20--1/3) S F D Ok To Extend Application To 2/14/2014) ***Expired Called Lft Message 8-26-11**** County File # 500 Scale Map #		
<u>OWNER</u> Mamone, Michael Phone 415 235-2975 Mailing Address 121 Liberty St San Francisco, Ca 94110					
<u>ARCHITECT OR ENGINEER</u> Thompson Design Associates Mailing Address 90 Adams Ave Mill Valley, Ca 94941 Phone 388-9630 License No. C5746			<u>CONTRACTOR</u> OWNER/BUILDER Class		

Land Development

Sbmtl Rqst sent 8/20/08, -DN
 rev. 11-18-10
 apr 06/17/11

Building and Safety

BC
 OWNER HAS LETTER OF RISK ON FILE NEEDS TO FOR COASTAL REV. (BEST PROGRAM)
 on khf's shelf
 MODIFICATION ARE REQ'D.-MARCH 25,2008 BY KHF.
 OK to extend application till 2/29/10. --wpk rec rev. 3-4-10
 OK to extend application till 2/29/11. --wpk MODIFICATION ARE REQ'D.-APRIL 21,2010 BY KHf
 rev 6-17-2010 rev (design change?) rcvd 11-18-10 MS
 apr.12/20/10

Environ./Health

sent 3/5/08
 3/11/08 STOPPED in EHS, letter sent - JS
 8/5/08 BLDG PERMIT approved w/HOLD for septic final. JS
 APPROVED @ DEC.20, 2010 BY KHF.-BACK TO

Planning Dept.

tejirian--letter of risk approved

BUILDING PERMIT MARIN COUNTY BUILDING INSPECTION DIVISION	Permit Number 133220 Date 02/21/2012	<table style="width:100%;"> <tr> <td style="width:33%;">APN 199-272-04</td> <td style="width:33%;">Zone 0</td> <td style="width:33%;">PIN NO. 500437</td> </tr> <tr> <td>Received 10/01/2007</td> <td>Item# 0</td> <td>Ckd By KHF</td> </tr> </table>	APN 199-272-04	Zone 0	PIN NO. 500437	Received 10/01/2007	Item# 0	Ckd By KHF
APN 199-272-04	Zone 0	PIN NO. 500437						
Received 10/01/2007	Item# 0	Ckd By KHF						
<u>JOB ADDRESS</u> 36 Starbuck Dr _____ Number Street City / Zip Muir Beach Nearest Cross Street Seacape		Type of Improvement <input checked="" type="checkbox"/> NEW <input type="checkbox"/> ADDITION <input type="checkbox"/> REMODEL <input type="checkbox"/> REV. <input type="checkbox"/> SEWER <input checked="" type="checkbox"/> SEPTIC Use Of Structure (20--1/3) S F D ***Expired, Extend To 2/21/2015 See Gerry In Enf Before Any Further Extensions County File # 500 Scale Map #						
<u>OWNER</u> Mamone, Michael Phone 415 235-2975 Mailing Address 121 Liberty St San Francisco, Ca 94110								
<u>ARCHITECT OR ENGINEER</u> Thompson Design Associates Mailing Address 90 Adams Ave Mill Valley, Ca 94941 Phone 388-9630 License No. C5746		<u>CONTRACTOR</u> OWNER/BUILDER Class						

Land Development
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 APPROVED @ DEC.20,2010
 BY KHF.-BACK TO PLANNI

Planning Dept.
 tejirian--letter of
 risk approved

RECEIVED

February 26, 2015

MAR 04 2015

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

5 Ahab Drive
Muir Beach, CA 94965

RECEIVED
MAR 02 2015
CALIFORNIA
COASTAL COMMISSION

Kevin Kahn
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Revision to sec. 22.56.120I of the Marin County Interim Zoning Ordinance

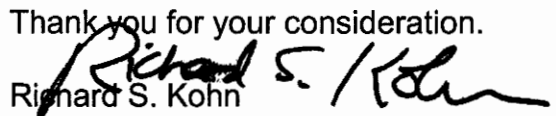
Dear Kevin,

This shall follow up my letter to you dated July 10, 2013 (attached). I am also attaching a copy of my appeal filed this date with the Executive Director seeking review of a decision by the Marin County Community Development Agency that will allow the development at 36 Starbuck Drive in Muir Beach to proceed without a coastal permit, the six year limitation period allowed by sec. 22.56.120I of the Interim Zoning Ordinance having expired. We would appreciate it if you would consider these materials in connection with your consideration of proposed section 22.70.120 of the Development Code which significantly waters down the requirements of existing section 22.56.120I.

In a meeting with Tom Lai on February 4, 2015, he expressed frustration with developers who do not complete their projects years on end after issuance of a building permit. Paradoxically, the CDA is not applying the limitations provisions or the public notice provisions in sec. 22.56.120I in order to ensure that developers complete their projects within the allotted time. In this particular case, after seven years of delay, the CDA has issued yet another building permit extension while totally ignoring the requirement that the project also needs a Coastal Permit extension in order to continue. Either the CDA is acting as though sec. 22.56.120I does not exist, or it erroneously assumes that the coastal permit runs with the building permit.

To my knowledge, no explanation has ever been offered by the CDA for doing away with the protections currently available under sec. 22.56.120I although, as this case demonstrates, the CDA has shown an unwillingness to enforce them. I hope that the Coastal Commission will accept this appeal and resolve the important issues we have raised. In any event, I would be grateful if you would give careful consideration to the proposed revision of the Development Code that would remove all limitations and public notice requirements with regard to coastal permits and allow development in the coastal zone to go on for year after year at the whim and convenience of the developer.

Thank you for your consideration.


Richard S. Kohn

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060-4508

VOICE AND TDD (831) 427-4863

FAX (831) 427-4877

RECEIVED

MAR 02 2015

CALIFORNIA
COASTAL COMMISSION**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: Richard S. Kohn

Mailing Address: 5 Ahab Drive

City: Muir Beach CA

Zip Code: 94965

Phone: 415-383-8220

SECTION II. Decision Being Appealed

1. Name of local/port government:

Marin County Community Development Agency

2. Brief description of development being appealed:

construction of single family residence with garage and pool

3. Development's location (street address, assessor's parcel no., cross street, etc.):

36 Starbuck Drive Muir Beach CA Assessor's parcel 199-272-04

4. Description of decision being appealed (check one.):

☒ Approval; no special conditions Extension of permits in violation of Interim Zoning Ordinance sec. 22.56.120I.☐ Approval with special conditions:☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☒ Planning Director/Zoning Administrator
☐ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: February 25, 2015

7. Local government's file number (if any): Permit No. 133220

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Michael Mamone
121 Liberty Street
San Francisco, CA 94110
(415)235-2975

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Paul Jeschke, 77 Starbuck Drive, Muir Beach, CA 94965 (415) 388-2278

(2) Gerry Morena, Code Enforcement Officer, Marin County Community Development Agency, 3501 Civic Center Drive, Room 308, San Rafael, CA 94903-4157

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SEE ATTACHED SHEETS

Section IV. Reasons Supporting this Appeal

Introduction

This appeal will determine whether the Marin County Community Development Agency can ignore the requirements of Interim Zoning Ordinance 22.56.120I and allow a project to continue past the six year maximum life of coastal permits allowed by law; avoid giving the prescribed notice to the public of extension requests; and effectively cut off the right of members of the public to appeal to the California Coastal Commission.

For years the CDA has granted extensions for this project in derogation of the Code provisions and the project has still not been completed. The worksite is a public nuisance. February 27, 2015 marks seven years since the coastal permit was granted, which includes an automatic one year extension of planning permits that was authorized by the Board of Supervisors in 2010. There is no discretion to extend a coastal permit beyond the time specified in 22.56.120I. Yet, on February 25, 2015 the CDA extended the building permits to August 21, 2015. It completely ignores the fact that the coastal permit has expired and cannot be renewed beyond February 27, 2015.

Jurisdiction

The basis of this appeal is Interim Zoning Ordinance sec. 22.56.020I and 22.56.080I. The development is located between the Pacific Ocean and the first public road paralleling the sea pursuant to Pub. Resources Code sec. 30603(a)(1). See California Code of Regulations 13011. The certified LCP for unit 1 recognizes Highway 1 or Panoramic Highway as the first public road. LCP p.65 par. 21. The appellant is an aggrieved party because I have registered objections with the CDA regarding this project on many occasions since June 12, 2013.

Exhaustion of Administrative Remedies

There are no administrative remedies to exhaust. In any event, any appeal to the Deputy Zoning Administrator, Jeremy Tejirian or the Deputy Director, Tom Lai, would be futile because both of them have been involved in issuing the illegal permits in this case. Appeals to the Planning Commission or the Board of Supervisors would require payment of substantial appeal fees. Under the circumstances, appeal lies directly to the Coastal Commission. California Code of Regulations sec. 13573(a)(4).

Applicable Law

"22.56.120I Expiration date and time extensions.

"A coastal project permit shall expire two years from the effective date of approval. Prior to expiration of a coastal project permit approval, the applicant may apply for an extension up to a maximum period of four years from the original date of expiration. Notice of a permit extension request shall be provided as established in Section 22.56.065I. For permits originally issued following a public hearing, pursuant to Section 22.56.070I (A), the deputy zoning administrator shall hear and decide the extension request. Extensions for coastal project permits originally issued pursuant to Section 22.56.070I (B) shall be issued by the planning director. Coastal project permit extensions may be granted upon findings that the project continues to be in conformance with the requirements and objectives of the certified local coastal program. Permit extensions may be appealed as established in Section 22.56.080I. If a building permit or other permit is issued during the effective life of a coastal project permit, the expiration date of the coastal project permit shall be automatically extended to concur with the expiration date of the permit." (emphasis added)

22.06.010I Nonconforming permits void.

"All departments, officials and public employees of the county who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permit or license for uses, buildings, or purposes where the same would be in conflict with the provisions of this title. Any permit or license, if issued in conflict with the provisions of this title, shall be null and void."

Issues Presented

Whether the CDA can grant an extension of the coastal permit beyond the six year maximum allowed by Interim Zoning Ordinance sec. 22.56.120I?

Whether the CDA can allow an extension without giving the public notice mandated by Interim Zoning Ordinance sec. 22.56.120I?

Statement of Facts

The Coastal Permit

Any development in the coastal zone other than a facility subject to section 25500 requires a coastal permit. Public Resources Code sec. 30600(a); Interim Zoning Ordinance sec. 22.56.040I. The coastal permit must be applied for prior to or concurrent with other necessary county project permits. Interim Zoning Ordinance sec. 22.56.060I.

The initial coastal permit was issued on February 27, 2008 and expired on February 27, 2010. According to the CDA, the coastal permit was automatically extended by one year pursuant to BOS Ordinance 3254. That ordinance added one year to the effective date of approval of planning documents. So, the expiration date of the coastal permit was extended to February 27, 2011 by operation of law. Nothing in the file shows that the developer timely sought an extension of the coastal permit *per se* beyond that date.

The Building Permit.

The original building permit became effective on February 29, 2008 and expired on February 29, 2010.¹ Like the coastal permit, it was automatically extended by one year by virtue of BOS Ordinance 3524. In January 2012, the developer sought a further one-year extension from February 29, 2011. This application was rejected by the staff but that decision was overruled in a memorandum from Tom Lai dated January 5, 2012. The memorandum made clear that the extension would be for "one final, one year extension." Since it was a retroactive extension, the dates were from February 29, 2011 to February 29, 2012. Nothing in the file shows that the developer met the requirement of Marin County Building Code sections 19.04.050 and 19.04.055 that requests for extensions must be in writing and demonstrate that the inability to complete the project was for justifiable cause and beyond the reasonable control of the applicant.²

Despite the statement about the one year extension being final, the CDA issued further extensions without explanation to February 14, 2014 and February 21, 2015. Nothing in the public file shows that the developer was issued an extension of the building permit during the life of the coastal permit. Had that been the case, the coastal permit would have run with the building permit, pursuant to the last sentence in sec. 22.56.120I.

¹ The building permit bears the date of February 21, 2008 but the CDA has consistently stated that it became effective when the planning department signed off on February 29, 2008.

² The only request for an extension in the public file is dated November 4, 2011, nine months after the coastal permit had expired. It was filed on the developer's behalf by Thompson Design Associates and states that "There has been no work on the property yet." It requests an extension of the "permit process" and states "He wants to continue his efforts to control the property and build the house." No reasons for the delay are given.

Actual construction did not commence until January 2013 and has proceeded in fits and starts. On January 30, 2015, I emailed the CDA pointing out that the six year maximum period of limitations for a coastal permit (now seven years because of BOS Ordinance 3524) would expire on February 27, 2015 and that no public notice of any extension request had been given as required by sec. 22.56.120I. Notwithstanding many email messages and a meeting with Tom Lai on February 4, 2-15, on February 25, 2015 I was advised by email that an extension of the building permit had been granted until August 21, 2015. No mention is made of the requirement that projects in the coastal zone must have a coastal permit to proceed.

Argument

For several years with respect to this project, the CDA has been violating section 22.56.120I of the Interim Zoning Ordinance. This is documented in extensive correspondence between the undersigned and the CDA. By turning a blind eye towards the requirements of this provision, the CDA has excluded the public from any notice or opportunity to be heard in connection with this project since 2008. Now, the project has entered a new phase because the CDA has issued yet another extension of the building permit for the project until August 21, 2015. The CDA is silent regarding the coastal permit. The issuance of the coastal permit is prohibited by section 22.56.120I.

Coastal Permit No. 07-31 issued to the developer on February 27, 2008 contains the following explanation of how the coastal permit becomes vested:

VESTING:

The applicant must vest this approval by: (1) obtaining a Building Permit or other construction permit, if required for the approved work and substantially completing the improvements in accordance with the approved permits by February 27, 2010, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Community Development Agency staff approves it. An extension of up to four years may be granted for cause based upon an application.

The Building Permit approval expires if the building or work authorized is not commenced within one year from the issuance of such permit. A Building Permit is valid for two years during which construction is required to be completed. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date of such permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the Coastal Permit approval (and no extensions have been

granted) the Building Permit and Coastal Permit approvals may become null and void. Should you have difficulty meeting the deadline for completing the work pursuant to a Building Permit, the applicant may apply for an extension to the Coastal Permit at least 10 days before the expiration of the Coastal Permit approval."

Given the mandatory language of section 22.56.120I, and the above provision in the coastal permit which reflects it, the extension of the coastal permit to August 21, 2015 violates the zoning regulation in several respects.

I

The original coastal permit issued on February 27, 2008 expired on February 27, 2010. By virtue of BOS ordinance 3524, one year was added to the effective date of approval so the expiration date was extended to February 27, 2011. Prior to that date, no work had been commenced much less being completed. Pursuant to the final sentence in sec. 22.56.120I, in order to extend the life of the coastal permit, a building permit must have been issued "during the effective life of a coastal project permit." In such a case, the expiration date of the coastal permit would be automatically extended to coincide with the expiration date of the building permit. Here, however, when the CDA retroactively extended the building permit from February 29, 2011 to February 29, 2012, the coastal permit had already expired. So this provision did not automatically extend the life of the coastal permit beyond February 27, 2011.

The second sentence of 22.56.120I makes clear that the maximum period for which extensions can be granted is four years from the original date of expiration. The clock runs out on February 27, 2015. It is crystal clear that the extension of the coastal permit beyond February 27, 2015 would be in conflict with the plain language of sec. 22.56.120I. In any event, any application for an extension must be made prior to the expiration of the coastal permit. The administrative record shows that the developer did not apply for an extension prior to 2/27/11, the last date the coastal permit was in effect. Obviously, it would be impossible to meet that requirement now.

The CDA takes the position that the developer has a vested right to complete the project because he has performed substantial work in good faith reliance on a permit, citing *Avco Community Developers, Inc. v. South Coast Regional Commission* (Supreme Court 1976) 17 Cal.3d 785. It's reliance on *Avco* is misplaced. The vesting cases have to do with a situation where the zoning law changes after the developer has put a substantial amount of work into a project and has acquired a building permit before the change. In *Avco* the Court was applying a statute that specifically relieved developers of the need to acquire a coastal permit under a newly enacted law where he had acquired a building permit and done substantial work. The Court says: "Once a

landowner has secured a vested right the government may not, by virtue of a change in the zoning laws, prohibit construction authorized by the permit upon which he relied."

That is not the situation here. Interim Zoning Ordinance sec. 22.56.120I does not impose any new requirements: it was on the books when this project began in 2007. The developer was not blindsided by any new requirements. One may assume that the developer acquired a vested right to complete the project under the terms of the building permit. That has nothing to do with the collateral requirements governing the issuance of a coastal permit. Any person wishing to perform or undertake development in the coastal zone must obtain a coastal permit. Pub. Resources Code sec. 30600(a). The clock has run out.

It is undisputed that the effective expiration date for the coastal permit was February 27, 2011. Thus, the developer has been operating illegally ever since then. Even assuming that the developer had applied for an extension prior to the expiration of the original coastal permit the four year maximum extension period would have been measured from the expiration date. (Obviously, the purpose is to prevent piggybacking and endless extensions) Even if an extension had been timely requested in this case, no extension could be granted beyond February 27, 2015. Nothing in *Avco* or the other cases it discusses stands for the proposition that an existing coastal regulation can be nullified by the fact that the developer acquired a vested right to complete the project according to the terms of the building permit.

Also, the developer's plight is not sympathetic. He was warned in 2012 that he was getting a one time final extension of the building permit to complete the project. Notwithstanding that clear warning, the CDA issued further extensions without explanation up until February 21, 2015. In violation of sec. 22.56.120I, no public notice of these extensions was ever given. The developer was on notice that he had to finish the project but he ignored that. He is responsible for knowing what the law requires. He knew or should have known that sec. 22.56.120I imposes mandatory time limits for extensions of a coastal permit. As in *Avco* itself, any argument that he relied to his detriment on assurances given him by the CDA has no traction.

In discussing the *Spindler* and *Anderson* cases, the Court in *Avco* says: "Despite minor factual variations *Spindler* and *Anderson* are clearly controlling. They stand for the proposition that neither the existence of a particular zoning nor work undertaken pursuant to governmental approvals preparatory to construction of buildings can form the basis of a vested right to build a structure that does not comply with the laws applicable at the time a building permit is issued. By zoning the property or issuing approvals for work preliminary to construction the government makes no representation to a landowner that he will be exempt from the zoning laws in effect at the subsequent time he applies for a building permit or that he may construct particular structures on the

property, and thus the government cannot be estopped to enforce the laws in effect when the permit is issued.”

By the same token, the developer here is not excused from compliance with the zoning rules in effect when the building permit was issued. The six years allowed for a coastal permit under sec. 22.56.120I will expire on February 27 after which he is not eligible for another extension.

II.

In addition to the mandatory time frame, the CDA is violating 22.56.120I by failing to give public notice which has the effect of nullifying the right to appeal to the Coastal Commission.

The regulation requires that notice of a permit extension request be provided as established in Section 22.56.065I. The only documentation of public notice in the administrative record was at the time of the original application in 2008. Certainly, none has been given of the current request. Construction did not even commence until January 2013. At no time after 2008 was the public given an opportunity to comment.

Also, the regulation provides that permit extensions may be appealed to the California Coastal Commission as established in Section 22.56.080I. But if the public was never given notice that the extension was being sought, or notified what the decision was, the right to appeal to the Coastal Commission was meaningless.

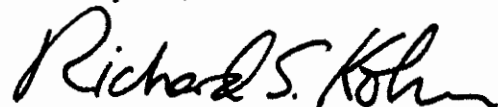
The administrative record will show that by granting extensions without notice or opportunity to be heard as required by sec. 22.56.120I, the CDA has illegally excluded the public from the decision making process and has negated the appellate jurisdiction of the Coastal Commission.

Conclusion

Appellant respectfully submits that this appeal raises significant questions of compliance with the LCP relating to coastal permits that should be addressed by the Commission.

Respectfully submitted,

February 26, 2015

A handwritten signature in black ink, appearing to read "Richard S. Kohn". The signature is fluid and cursive, with the first name "Richard" being the most prominent part.

Richard S. Kohn

EXHIBITS

From: Paul <paul.jeschke@gmail.com>
To: Brenda Kohn <brendakohn@aol.com>
Subject: Fwd: 36 Starbuck Drive
Date: Thu, Jan 29, 2015 5:53 pm

Sent from my iPhone

Begin forwarded message:

From: "Morena, Gerry" <GMorena@marincounty.org>
Date: January 29, 2015 at 3:24:25 PM PST
To: "paul.jeschke@gmail.com" <paul.jeschke@gmail.com>
Cc: "Lai, Thomas" <TLai@marincounty.org>
Subject: 36 Starbuck Drive

Dear Mr. Jeschke,

I am responding to your inquiry on behalf of Brian Crawford. According to our records, the building permit for the swimming pool was approved for issuance, but that application expired. The contractor came to the office today and paid for an extension. Building Permit #145660 for the new pool with cover and spa has been issued. Similarly, the Building Permit for the house can also be extended. Extensions of Building Permit applications can be approved since the construction has been vested in accordance with the requirements of the Local Coastal Program and the Coastal Permit that was issued for these improvements.

I want to let you know that the property owner, Mr. Mamone, was contacted regarding the condition of the property. He assured me that he would clean up and remove the debris. According to our conversation this morning, this has been done. Would you please let me know if you have noticed any improvement?

If you have any questions, please contact me.

Sincerely,

Gerry Morena

Code Enforcement Specialist

County of Marin

Community Development Agency

3501 Civic Center Drive, Suite 308

San Rafael, CA 94903

From: brendakohn <brendakohn@aol.com>
To: TLai <TLai@marincounty.org>
Cc: BCrawford <BCrawford@marincounty.org>; JTejirian <JTejirian@marincounty.org>; GMorena <GMorena@marincounty.org>; paul.jeschke <paul.jeschke@gmail.com>
Subject: 36 Starbuck Drive Muir Beach
Date: Fri, Jan 30, 2015 1:07 pm

Tom

This week I called the office and spoke with Bridgette Choate regarding the fact that construction at 36 Starbuck Drive is proceeding without the required permits. She advised me that an extension of the building permit was in the process of being granted. She advised me to talk to Jeremy Tejirian. I left a message for Jeremy and he returned my call on Thursday night. He advised me that you were the appropriate person to speak to concerning this project. In the meantime, Paul Jeschke had been communicating with Brian Crawford concerning the project. On Thursday, he received an email from Gerry Morena at Code Enforcement stating that building permits for the swimming pool had been issued and that the building permit for the project "can also be extended." Her email states "Extensions of Building Permit applications can be approved since the construction has been vested in accordance with the requirements of the Local Coastal Program and the Coastal Permit that was issued for these improvements." I believe that this statement is in error.

The CDP expired on 2/27/10. The Building permit was subsequently extended from 2/29/10 and 2/29/11 by operation of law. This extension was not within the effective life of the CDP. Nor was a subsequent extension of the Building Permit which you authorized on January 5, 2012 (retroactively from 2/29/11 to 2/29/12) granted during the effective life of the coastal permit. Therefore the CDP could not have been automatically extended pursuant to Interim Zoning Code sec. 22.56.120I. Notwithstanding, no notice or opportunity for public hearing was given, as required by the regulation. It is not clear from the administrative record whether or by whom a further extension of the building permit was given, but the CDP could not have been legally extended. The Community Development Agency is now in the process of extending the building permit again although the CDP has long since expired. For further detail and discussion of this issue, please see my correspondence to you dated June 12, 2013, June 21, 2013, July 11, 2013 and August 19, 2013.

By granting any further extensions for this project, the Community Development Agency is proceeding in violation of section 22.56.120I of the Interim Zoning Code by granting extensions of the building permit after the CDP has expired and without any notice to the public or opportunity to be heard. There has been no opportunity for public involvement since 2008. By circumventing this regulation, the agency is also eviscerating the appeal jurisdiction of the California Coastal Commission.

It should be obvious that this project is inconsistent with the small scale residential character of the old community of Muir Beach. I herewith request that the Community Development Agency rescind any further extensions that have been granted and grant no more extensions for this project. In addition to the CDP violation, please note that in your memorandum to Bridgette Choate dated January 5, 2012 you stated that "I am inclined to support his request for one final, one year extension to the Building Permit application, from 2/29/11 to 2/29/12. That time has long since passed. I would further point out that construction did not commence until January 2013. Under the circumstances, it is hard to see how the project could have become "vested."

The favor of a reply would be appreciated.

Richard Kohn

From: Lai, Thomas <TLai@marincounty.org>
To: 'brendakohn@aol.com' <brendakohn@aol.com>
Cc: Crawford, Brian <BCrawford@marincounty.org>; Tejirian, Jeremy <JTejirian@marincounty.org>; Morena, Gerry <GMorena@marincounty.org>; paul.jeschke <paul.jeschke@gmail.com>
Subject: RE: 36 Starbuck Drive Muir Beach
Date: Fri, Jan 30, 2015 1:29 pm

Mr. Kohn,

We have previously responded to your inquiries about the status of the Coastal Permit. Notwithstanding the fact that the original Coastal Permit had expired before the building permit was issued, the County issued a building permit and the owner relied in good faith upon that permit to begin construction and to make substantive improvements. Our position is that the project approved by the Coastal Permit is vested based on the extent of construction and inspections that were granted for the residence. This was reflected in a communication sent to you from Mr. Crawford in December 2013.

Our interest in this matter is to ensure that work under the building permit and extensions are completed as soon as possible. Should you wish to discuss this further, please email me with some dates and times that work for you for a meeting.

-Tom

From: brendakohn@aol.com [<mailto:brendakohn@aol.com>]
Sent: Friday, January 30, 2015 11:08 AM
To: Lai, Thomas
Cc: Crawford, Brian; Tejirian, Jeremy; Morena, Gerry; paul.jeschke@gmail.com
Subject: 36 Starbuck Drive Muir Beach

Tom

This week I called the office and spoke with Bridgette Choate regarding the fact that construction at 36 Starbuck Drive is proceeding without the required permits. She advised me that an extension of the building permit was in the process of being granted. She advised me to talk to Jeremy Tejirian. I left a message for Jeremy and he returned my call on Thursday night. He advised me that you were the appropriate person to speak to concerning this project. In the meantime, Paul Jeschke had been communicating with Brian Crawford concerning the project. On Thursday, he received an email from Gerry Morena at Code Enforcement stating that building permits for the swimming pool had

From: Lai, Thomas <TLai@marincounty.org>
To: 'brendakohn@aol.com' <brendakohn@aol.com>
Cc: Crawford, Brian <BCrawford@marincounty.org>; Tejirian, Jeremy <JTejirian@marincounty.org>; Morena, Gerry <GMorena@marincounty.org>; paul.jeschke <paul.jeschke@gmail.com>; Lai, Thomas <TLai@marincounty.org>
Subject: RE: 36 Starbuck Drive Muir Beach
Date: Fri, Jan 30, 2015 4:00 pm

Mr. Kohn,

As I mentioned in my previous email, please let me know if you'd like to discuss this matter in person.

-Tom

From: brendakohn@aol.com [<mailto:brendakohn@aol.com>]
Sent: Friday, January 30, 2015 1:05 PM
To: Lai, Thomas
Cc: Crawford, Brian; Tejirian, Jeremy; Morena, Gerry; paul.jeschke@gmail.com
Subject: 36 Starbuck Drive Muir Beach

Tom,

Interim Zoning Ordinance sec. 22.56.120I states: "A coastal project permit shall expire two years from the effective date of approval. Prior to expiration of a coastal project permit approval, the applicant may apply for an extension up to a maximum of four years from the original date of expiration." The original expiration date of the CDP was 2/27/10. By my calculation, the four year maximum expired on 2/27/14. In addition to the other arguments that I have made, this mandatory language would prohibit any further extensions of the CDP. Perhaps when you address the "vesting" issue you could address this clear mandate as.

Richard Kohn

Email Disclaimer: <http://www.marincounty.org/main/disclaimers>

From: brendakohn <brendakohn@aol.com>
To: TLai <TLai@marincounty.org>
Subject: Re: 36 Starbuck Drive Muir Beach
Date: Fri, Jan 30, 2015 6:57 pm

Hi Tom,

Let's say 11:30 on Wednesday.

Richard

—Original Message—

From: Lai, Thomas <TLai@marincounty.org>
To: 'brendakohn@aol.com' <brendakohn@aol.com>
Sent: Fri, Jan 30, 2015 6:54 pm
Subject: RE: 36 Starbuck Drive Muir Beach

Mr. Kohn,

I'm available Wednesday between 11am and 3pm. Just let me know when you want to drop by and I'll put it in my calendar.

-Tom

From: brendakohn@aol.com [mailto:brendakohn@aol.com]
Sent: Friday, January 30, 2015 4:50 PM
To: Lai, Thomas
Cc: Crawford, Brian; Tejirian, Jeremy; Morena, Gerry; paul.jeschke@gmail.com
Subject: Re: 36 Starbuck Drive Muir Beach

Tom,

I would be happy to discuss this with you in person. I thought it would expedite matters to put the issues on the table before we meet. Granting an extension would appear to be in plain conflict with Interim Zoning Code sec. 22.56.120I. I can be available Monday or Wednesday morning if you are. Could you clarify whether the Building Permit and the CDP have already been extended? Gerry Morena's email suggests that they have not.

Richard Kohn

—Original Message—

From: Lai, Thomas <TLai@marincounty.org>
To: 'brendakohn@aol.com' <brendakohn@aol.com>
Cc: Crawford, Brian <BCrawford@marincounty.org>; Tejirian, Jeremy <JTejirian@marincounty.org>; Morena, Gerry <GMorena@marincounty.org>; paul.jeschke <paul.jeschke@gmail.com>; Lai, Thomas <TLai@marincounty.org>
Sent: Fri, Jan 30, 2015 4:00 pm
Subject: RE: 36 Starbuck Drive Muir Beach

Mr. Kohn,

As I mentioned in my previous email, please let me know if you'd like to discuss this matter in person.

-Tom

From: Lai, Thomas <TLai@marincounty.org>
To: 'brendakohn@aol.com' <brendakohn@aol.com>
Cc: Crawford, Brian <BCrawford@marincounty.org>; Tejirian, Jeremy <JTejirian@marincounty.org>; Morena, Gerry <GMorena@marincounty.org>; paul.jeschke <paul.jeschke@gmail.com>; Lai, Thomas <TLai@marincounty.org>
Subject: RE: 36 Starbuck Drive Muir Beach
Date: Fri, Jan 30, 2015 2:59 pm

Mr. Kohn,

Vested rights are established in a long series of Supreme Court cases (e.g. Avco Community Developers, Inc. v. South Coastal Regional Commission). A property owner acquires vested rights status to complete construction where he/she has performed substantial work in good faith reliance on a permit.

-Tom

From: brendakohn@aol.com [<mailto:brendakohn@aol.com>]
Sent: Friday, January 30, 2015 11:52 AM
To: Lai, Thomas
Cc: Crawford, Brian; Tejirian, Jeremy; Morena, Gerry; paul.jeschke@gmail.com
Subject: Re: 36 Starbuck Drive Muir Beach

Tom

Thank you for your prompt response. It may help to resolve this if you could provide a citation to any authority in the LCP, Interim Zoning Code, California Coastal Commission regulations or elsewhere that supports the proposition that a CDP can become vested based upon the construction and inspections?

Thank you for your consideration.

Richard Kohn

—Original Message—

From: Lai, Thomas <TLai@marincounty.org>
To: 'brendakohn@aol.com' <brendakohn@aol.com>
Cc: Crawford, Brian <BCrawford@marincounty.org>; Tejirian, Jeremy <JTejirian@marincounty.org>; Morena, Gerry <GMorena@marincounty.org>; paul.jeschke <paul.jeschke@gmail.com>
Sent: Fri, Jan 30, 2015 1:29 pm
Subject: RE: 36 Starbuck Drive Muir Beach

Mr. Kohn,

From: brendakohn <brendakohn@aol.com>

To: TLai <TLai@marincounty.org>

Cc: BCrawford <BCrawford@marincounty.org>; JTejirian <JTejirian@marincounty.org>; GMorena <GMorena@marincounty.org>; paul.jeschke <paul.jeschke@gmail.com>

Subject: 36 Starbuck

Date: Mon, Feb 2, 2015 9:36 am

Tom,

To facilitate our discussion on Wednesday, this will lay out the issue as I see it.

Your reliance on Avco is misplaced. The vesting cases have to do with a situation where the zoning law changes after the developer has put a substantial amount of work into a project and has acquired a building permit. In Avco the court was applying a statute that specifically relieved developers of the need to acquire a coastal permit under a newly enacted law where he had acquired a building permit and done substantial work. The court says: "Once a landowner has secured a vested right the government may not, by virtue of a change in the zoning laws, prohibit construction authorized by the permit upon which he relied."

That is not the situation here. Interim Zoning Ordinance 22.56.120I does not impose any new requirements: it was on the books when this project began in 2007. The developer was not blindsided by any new requirements. Let's assume that the developer acquired a vested right to complete the project under the terms of the building permit. That has nothing to do with the requirements governing the issuance of a coastal permit. Under sec. 22.56.120I the clock has run out.

There is no dispute that the original expiration date for the coastal permit was 2/27/10. You have stated that the coastal permit was extended by operation of law until 2/27/11. It appears that the developer has been operating illegally since then. Even assuming that the developer had applied for an extension prior to the expiration of the coastal permit, the four year maximum extension period is measured from the original expiration date. (Obviously the purpose is to prevent piggybacking and endless extensions) Nothing in Avco or the other cases it discusses stand for the proposition that an existing coastal regulation can be nullified by the fact that the developer acquired a vested right to complete the project according to the terms of the building permit.

Also, the developer's plight is not sympathetic. You warned him in 2012 that he was getting a one time extension of the building permit. Somehow, he apparently obtained another extension until February 2015. He was on notice that he had to finish the project but he ignored that. He is responsible for knowing what the law requires. He knew or should have known that sec.22.56.120I imposes mandatory time limits for extensions of a coastal permit. As in Avco itself, any argument that he relied to his detriment on assurances given him by the CDA has no traction.

In discussing the Spindler and Anderson cases, the court in Avco says: "Despite minor factual variations Spindler and Anderson are clearly controlling. They stand for the proposition that neither the existence of a particular zoning nor work undertaken pursuant to governmental approvals preparatory to construction of buildings can form the basis of a vested right to build a structure that does not comply with the laws applicable at the time a building permit is issued. By zoning the property or issuing approvals for work preliminary to construction the government makes no representation to a landowner that he will be exempt from the zoning laws in effect at the subsequent time he applies for a building permit or that he may construct particular structures on the property, and thus the government cannot be estopped to enforce the laws in effect when the permit is issued."

By the same token, the developer here is not excused from compliance with the zoning rules in effect when the building permit was issued. The six years allowed for a coastal permit under sec. 22.56.120I has expired and he is not eligible for another extension.

On January 30 I requested clarification of what new permits have been issued. You have not responded. Meanwhile, the work continues. The agency should stop treating this illegal project as a fait accompli and immediately rescind any permits that have been issued.

2/2/2015

36 Starbuck

Perhaps Gerry Morena could join us in the meeting as she is the one responsible for enforcing the Interim Zoning Code.

Richard Kohn

From: brendakohn <brendakohn@aol.com>
To: GMorena <GMorena@marincounty.org>
Cc: TLai <TLai@marincounty.org>
Subject: 36 Starbuck Drive Muir Beach
Date: Mon, Feb 23, 2015 7:54 pm

Gerry,

I would appreciate it if you would update me on the status of the permits for this project. As of February 23, the public file contains no request for an extension beyond February 21 or any other information. Thank you.

Richard Kohn

From: brendakohn <brendakohn@aol.com>
To: GMorena <GMorena@marincounty.org>
Subject: 36 Starbuck
Date: Wed, Feb 25, 2015 1:24 pm

Gerry,

I would appreciate the courtesy of a reply to my February 23 email requesting information on the status of permits for this project.

On Feb 4, Brenda and I met with Tom Lai. Prior to the meeting, I acquired a copy of the latest Building Permit form which showed that you had granted an extension of the building permit until February 21, 2016. When I brought this to Tom's attention, he said it was a mistake because the Agency had not even received a request for an extension. That date has since been deleted. In spite of this, Tom strongly implied that another extension would be granted.

The developer has now had seven years since his coastal permit was issued in which to complete this project. Building permit extensions have been granted several times albeit in violation of Marin Building Code sections 19.04.050 and 19.04.055. (There is only one request for an extension in the public file and it does not set forth any "justifiable cause beyond the reasonable control of the applicant" as required). According to the public records, the last extension of the building permit expired on February 21, 2015. In spite of that, at 11:00 today I observed a man on the deck of the building who appeared to be a workman.

The maximum period for a coastal development permit is six years. Interim Zoning Ordinance sec. 22.56.120I. This developer has had seven years due to the automatic extension that was allowed by the Board of Supervisors in 2010. The clock will run on February 27, 2015, and no further extensions can be granted. Even if that were not the case, the coastal development permit issued in 2008 in this case requires the owner to apply for an extension at least ten days prior to the expiration date. The public record does not contain any such request and no public notice has been given as required.

If the permits are not extended, then I respectfully request that you take immediate action pursuant to Interim Zoning Ordinance 22.56.050I to abate the nuisance which this uncompleted project poses to the Muir Beach community. Inexplicably, on January 29, 2015, knowing that the building had not been completed, the agency issued a permit allowing the developer to construct a pool. Since then, he has dug an enormous pit which looks to be about six feet in depth at the deep end. The pit is just a few feet away from a public easement on the west side of the property. This is an attractive nuisance and anyone (especially small children) who fell into it could be seriously injured. The excavation has led to a mountain of dirt which will blow all over the community when the wind comes up. There is open access to a huge Caterpillar trench digger on the premises. You should rescind the pool permit and the developer should be required to fill in the pit. On the east side, the developer has dug an open trench apparently for sewerage pipes that is also a nuisance as it poses a risk of serious injury to anyone (again small children are the chief concern) who stepped into it. The same can be said of the building itself which might attract children to explore inside it.

Again, I request that you advise me what action the CDA has decided to take in this case.

Thank you for your consideration.

Richard Kohn

From: Morena, Gerry <GMorena@marincounty.org>
To: 'brendakohn@aol.com' <brendakohn@aol.com>
Subject: RE: 36 Starbuck Drive Muir Beach
Date: Wed, Feb 25, 2015 12:33 pm

Hello Mr. Kohn,

Building Permit #133220 for the residence has been extended until August 21, 2015.

From: brendakohn@aol.com [mailto:brendakohn@aol.com]
Sent: Monday, February 23, 2015 5:54 PM
To: Morena, Gerry
Cc: Lai, Thomas
Subject: 36 Starbuck Drive Muir Beach

Gerry,

I would appreciate it if you would update me on the status of the permits for this project. As of February 23, the public file contains no request for an extension beyond February 21 or any other information. Thank you.

Richard Kohn

Email Disclaimer: <http://www.marincounty.org/main/disclaimers>

From: Morena, Gerry <GMorena@marincounty.org>
To: 'brendakohn@aol.com' <brendakohn@aol.com>
Subject: RE: 36 Starbuck Drive Muir Beach
Date: Wed, Feb 25, 2015 12:41 pm

Building Permit #133221 for a retaining wall will also be extended until August 21, 2015. The permit for the pool with cover and spa was just issued on January 29, 2015.

From: brendakohn@aol.com [<mailto:brendakohn@aol.com>]
Sent: Monday, February 23, 2015 5:54 PM
To: Morena, Gerry
Cc: Lai, Thomas
Subject: 36 Starbuck Drive Muir Beach

Gerry,

I would appreciate it if you would update me on the status of the permits for this project. As of February 23, the public file contains no request for an extension beyond February 21 or any other information. Thank you.

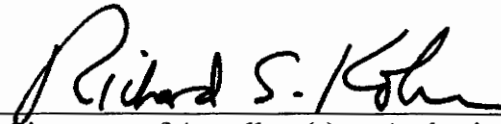
Richard Kohn

Email Disclaimer: <http://www.marincounty.org/main/disclaimers>

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: February 26, 2015

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

July 10, 2013

5 Ahab Drive
Muir Beach, CA 94965

RECEIVED
MAR 02 2015
CALIFORNIA
COASTAL COMMISSION

Kevin Kahn
Coastal Planner
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Dear Kevin,

I understand that pursuant to the Coastal Commission's Strategic Plan, changes to the implementation plan for the LCP are being considered by the Coastal Commission, which will determine which provisions of the Development Code should be applicable to the coastal zone. See Attachment 2, page 2, CDA July 2, 2013 Memorandum for July 30, 2013 Hearing on Submittal to CCC." (Online)

At present, extensions of coastal development permits (CDPs) that have previously been granted are governed by Interim Zoning Ordinance Section 22.56.120I. The proposed LCP implementation plan, section 22.70.120, significantly waters down the requirements. Furthermore, it fails to cure a defect in the current regulation regarding appeals to the California Coastal Commission. Both the old regulation and the proposed revision provide for public notice of a *request* for an extension. Both old and new provisions provide for an appeal to the Coastal Commission within ten days of the decision allowing an extension. But neither the old nor new sections provide for notice to the public of the *decision*. Without notice, how can members of the public exercise their right to appeal?

Thus, the appeal to the Coastal Commission is illusory. This omission could be cured by the addition of language incorporating Title 22 section 22.70.090 ("Notice of Final Action"), as long as the public notice of the *request* instructs interested persons to request notice of the Director's decision. Section 22.70.090 should be amended to allow email notice if a member of the public requests email notice. Otherwise, the effective date of the decision should be seven days after the decision to allow for U.S. Mail delivery. The effective date should trigger the 10 day period for filing an appeal.

There are other problems with proposed section 22.70.120 which I discuss below. Furthermore, the best drafted regulation is meaningless if the agency ignores it, which appears to be the case with requests for extensions. I discuss that below.

The existing provision states that coastal development permits expire in two years. Prior to the expiration of the CDP, the developer may apply for an extension for up to four years. Proposed section 22.70.120 eliminates these time periods as well as the requirement that a request for an extension be made prior to expiration. Consequently, extensions of coastal development permits would be entirely open-ended; can be applied for at any time (even after the original permit has expired); and for any period of time, e.g., twenty years. Obviously, some constraints on granting extensions are necessary. The existing requirements should be maintained except that CDPs should expire after one year—not two—and requests for extensions beyond the initial year should be limited to an additional year or two—not four. It should not take six years to commence work. No reason has been advanced by the CDA for eliminating any time limitations for permit extensions.

Why is this important? A significant consequence of allowing open-ended extensions by the CDA is that the original decision to grant the permit is frozen in time. Over time, old residents may move away and new residents move in. They may have a different attitude towards a planned project. As drafted, section 22.70.120 means that new residents would be bound by decisions that were made perhaps years ago. Putting a time limit on the duration of extensions ensures that new residents, assuming they are given proper notice, would have an opportunity to be heard if they wish to oppose the project. And if a developer cannot commence work on the project within a reasonable time, s/he can always apply for a new permit.

This is not a hypothetical concern as the case of 36 Starbuck Drive in Muir Beach, which I discuss below, amply demonstrates. In that case, extensions were granted (apparently in violation of Section 22.56.120I) that resulted in a five year hiatus between the approval of the original building and coastal development permits and the commencement of construction.

An additional issue concerns the criteria for granting CDP extensions. Pursuant to the proposed rule, the only criterion for granting an extension is “a finding that the project continues to be in conformance with the requirements and objectives of the Marin County LCP.” More guidance should be given and there should be a written decision. In addition to whether the project continues to comply with the LCP, relevant factors might include:

- 1) Extenuating circumstances that prevented construction from commencing within the original period
- 2) How many extensions have been granted in the past
- 3) Will the project be completed in a reasonable time
- 4) Was there any opposition after notice is given to the public
- 5) Whether a contractor has been hired and is ready to build
- 6) Have any changes been made to the plans that were approved

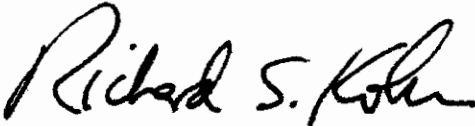
The problem that the foregoing suggestion addresses is that a developer could obtain a coastal development permit but wait years to commence construction. Extensions should not be granted like the medieval practice of selling indulgences for a fee. In fact, the existing regulation recognizes that there should be time limits beyond which extensions will not be granted, even if the project continues to be in compliance with the letter and spirit of the LCP. The CDA has not given any reason for allowing CDPs to be extended *ad infinitum*.

Which brings me to the issue I raised in my introductory paragraph: What do you do if the Agency charged with enforcing the regulations just ignores them? In January 2013, bulldozers and other heavy equipment suddenly appeared at the vacant lot at 36 Starbuck Drive in Muir Beach and started construction of an enormous residential building. Research showed that the building permit and coastal development permit had been granted by the CDA in 2008. Several extensions were granted over the years. Of particular note is a retroactive extension granted in 2012 that appears to be in flagrant violation of Section 22.56.120I (See my letters to Tom Lai dated June 12, 2013 and June 21, 2013 (**Exh. A and B**)). In any event, this was supposed to be the final extension. Notwithstanding, as reflected in a cryptic note on a Building Permit form, it appears that the permit was extended to 2014, with no documentation to support it in the public file. These untimely extensions, considered without notice to the public, effectively deprived the Coastal Commission of its appellate jurisdiction.

Since June 12, 2013 I have unsuccessfully sought a written explanation from CDA of how the building permit and the coastal development permit for 36 Starbuck Drive came to be extended. See **Exh. C**. I respectfully request that the Coastal Commission staff follow up with the CDA to ascertain the facts. Meanwhile, I have submitted a request under the California Public Records Act, Sec. 6250 et seq. to obtain a copy of the so-called "letter of risk", referred to in the file.

In this connection, Chapter 22.110.060 currently provides that "Any action by the Agency that is in conflict with any provision of this Development Code shall be void. (Ord. 3380 Exh.B (part), 2003." This provision should be incorporated into the implementation provisions of the LCP applicable in the coastal zone.

Also, consideration should be given to a provision that penalties be assessed if a project is not completed within a reasonable period of time. This would address the problem that arises when a developer does the bare minimum of work to meet permit deadlines and then just lets the project sit there, as may be the case with 36 Starbuck Drive.

A handwritten signature in black ink, reading "Richard S. Kohn". The signature is written in a cursive, flowing style.

Richard S. Kohn

cc:Jack Liebster
Tom Lai

September 15, 2014

Kevin Kahn
California Coastal Commission
45 Fremont Street #2000
San Francisco, CA 94105-2219

Re: Marin County LCP Update, Development Code Amendments, C-RSP Zoning

Dear Mr. Kahn,

I am writing regarding a change proposed in the Marin County Development Code/LCP Implementation Plan, which I believe will have unintended negative consequences and be inconsistent with the LCP's vision for Tomales Bay. The zoning code C-RSP (Coastal, Residential, Single-Family Planned) is proposed to be amended to allow Community Centers as a conditional use. The Development Code's definition of Community Centers is as follows:

This land use consists of multi-purpose meeting and recreational facilities, typically consisting of one or more meeting or multi-purpose rooms, kitchen and/or outdoor barbecue facilities, that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc.

Despite the implication of the name "community center," there is nothing in the definition that requires that this use be operated by a public entity, or in the public interest. It is simply a place where parties and other events can take place on a commercial basis. This is completely inappropriate for a coastal residential zoned area. It opens up nearly every property in coastal West Marin, especially those along Tomales Bay, to being rented out for weddings, parties or "retreats." This was not the intention of the original zoning, nor, I believe, of the amendment. Most people who are aware of the amendment have assumed that community centers would be operated for the public good and by a public entity.

The original LCP for Marin (policy 8(d), p.215) set zoning requirements for properties on the West side of Tomales Bay. The Yacht Club, Golden Hinde Boatel and Inverness Motel were identified as the only three commercial venues, to be rezoned to RCR. All other properties, apart from parklands, nature preserves and private beaches, were to be zoned residential. This rezoning has been accomplished. Changing the zoning now to allow more commercial uses on Tomales Bay would be inconsistent with the original and continuing vision for this centerpiece of West Marin.

The proposed amendment was not the result of debate and deliberation. Rather it was done simply to create consistency between the non-coastal and the coastal parts of the Marin County Development Code. This is a worthy bureaucratic endeavor, but a bad way to address land use in the sensitive coastal zone.

There are, in addition to commercially zoned properties, numerous properties on both sides of Tomales Bay that put on events without a permit. These operations are currently the source of many complaints from neighbors regarding noise and traffic issues. With this zoning change, their owners and many others may soon be able to operate their private commercial event spaces legally. Although one would hope that the Planning Commission, Board of Supervisors and Coastal Commission would not grant use permits for commercial event spaces in a residentially zoned area, especially along the Bay shoreline, it would be better to alter the definition so that the intention to allow only true non-commercial low-intensity community centers is clear to all. Even better would be to eliminate "Community Centers" as a conditional use in the C-RSP zone entirely.

Thank you for your attention to this obscure, but important matter.

Sincerely,

Catherine Caufield
PO Box 884
Inverness, CA 94937

From: [Julie Siegel](#)
To: Kahn_Kevin@Coastalbos@marincounty.org
Cc: bos@marincounty.org
Subject: C.C.C.'s Suggested Modifications to the Marin L.C.P. Implementation Plan
Date: Monday, March 02, 2015 1:16:20 PM

Dear Mr. Kahn,

I am writing to express my opposition to the proposed permit requirement for home based businesses that don't have outside employees.

I feel that a "Home Based Business" should be distinguished from "Cottage Industry" wording in the suggested modifications to the Marin L.C.P. Implementation Plan. Many artists and crafts people cannot afford these permits. Artisans are an important part of our culture and if we lose them, we will lose one of the attractions to the coast and an economical piece that makes it possible for people who aren't wealthy to live here and diversify the community.

I urge the C.C.C. to adopt a policy that allows home occupancy businesses as a permitted use in the coastal zone.

Thank you for your consideration in this matter.

Sincerely,

Julie Siegel
P.O. Box 1304
Pt. Reyes Station, CA 94956-1304
415-237-5007

From: [Sally Fairfax](#)
To: Kahn_Kevin@Coastal; bos@marincounty.org
Subject: Use Permits for Home Occupancy Businesses in the Coastal Zone
Date: Wednesday, February 25, 2015 9:43:20 AM

Kevin Kahn

California Coastal Commission

725 Front Street, Suite 300

Santa Cruz, CA 95060

Steve Kinsey

Marin County Board of Supervisors

3501 Civic Center Drive, Suite 329

San Rafael, CA 94903

RE: Use Permits for Home Occupancy Businesses in the Coastal Zone

Greetings:

I guess by now you have heard some folks in Point Reyes Station and surrounds wondering why a use permit costing between \$14 and 23,000 is necessary and appropriate for home occupancy businesses. Those fees would shut me down fast, and I am really enjoying the PROS part of my community.

So, I add my voice to that chorus. Strangling the artisan community out here is not in anybody's interest that I can think of.

Upshot: this proposal should not be implemented.

I hope you will see that this is a very bad idea and that you will put an end to it.
Thanks.

Warm regards,

Sally K. Fairfax

PO Box 1075

Inverness, CA 94937

From: marybelle.o
To: Kahn_Kevin@Coastal; bos@marincounty.org
Subject: re. CCC's Modifications to Marin LCP Implementation Plan
Date: Friday, March 13, 2015 4:14:05 PM

I strongly oppose the plan to impose any fees and the requirement of a Use Permit/ Coastal Permit for home studios of artists and artisans, and home business pursuits.

I have a long established home art studio for painting and designing stained glass. There has never been a single complaint from anyone about the studio. There is no justification for any county or state regulation. Further, artistic pursuits usually do not generate enough income to justify any permits or fees, let alone \$14000 to \$23000.

Mary Belle O'Brien
Artist and Stained Glass Designer

Bonnie Smetts
P.O. Box 216
Dillon Beach, CA 94929
(707) 878-2701

February 21, 2015

Kevin Kahn, Supervising Coastal Planner
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-5260

Re: Marin LCP Implementation Plan

Dear Mr. Kahn,

I am a long-time resident of Dillon Beach. I am writing to comment on the CCC's Suggested Modifications to the Marin LCP Implementation Plan (e.g. development code), specifically as it relates to home occupancy businesses.

Artisan, home businesses are an important part of the economic and cultural fabric of communities in the Coastal Zone. With limited job opportunities, they are one way for many local people to live and contribute economically to our area.

Such businesses have widespread support within the communities.

I oppose the requirement that home occupancy businesses (no outside employees) obtain use and coastal permits. The high costs of the permits would be a de facto prohibition on home business (no outside employees)—the nail in the coffin for our next generation of local citizens who hope to start their own businesses and remain in the community.

Marin County differentiates between home occupancy businesses (no outside employees) and cottage industries (outside employees), and does not place additional restrictions on the use of accessory structures on the property. Home occupancy businesses should be treated as a principally permitted use.

I urge the CCC to adopt a policy that allows home occupancy businesses as a principally permitted use in the Coastal Zone.

Sincerely,



Bonnie Smetts

cc: Marin County Board of Supervisors: BOS@co.marin.ca.us

Ned Hoke OMD
Post Office Box 38 • 475 Grove Road
Bolinas, CA 94924 • 415-868-1060

RECEIVED

MAR 03 2015

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Mr. Kevin Kahn
Supervising Coastal Planner
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

Re: Modifications on the Marin L.C.P./ Development Code

Dear Mr. Kahn,

Home occupation businesses have been one of the most significant mainstays of self support employment in our W. Marin communities since I first came here and settled in 1971. Many of these represent the most often primary, routinely modest income sources for a relatively large portion of our population. In my own case it's been so for most of 40 years.

As in the Marin County protocols home occupancy businesses do not place restrictions on use of accessory structures as apparently your staff plan does. This becomes a radical and unnecessary limitation of the small natures also of artisanal starting businesses our young choose to invest themselves in. Such fees and restrictions are prohibitive. Surely there are many of our local businesses who have some occasional help and this one size fits all restriction blended with what seems to be extreme taxation is most unwelcome in concept and fact.

I do not deny the desirable principle of coastal zone oversight. I could accept some planning that provides teeth for authorities to help keep neighborhoods untroubled with unwelcome industrializations/commercializations such as can be imagined in a "cottage industries" type of designation. If that is the actual purpose of your staff proposal vs, merely a sheep's clothing over tax-primary purpose then surely at the

Ned Hoke OMD
Post Office Box 38 • 475 Grove Road
Bollinas, CA 94924 • 415-868-1060

very least accepting, the Marin County home occupancy business no permit needed, and some better imagined stepped consideration for those who may have an employee or two.

Public employees might not be as alert to the self-employed locals rather than those who live with the security and privileges of pensions or sufficient personal wealth from wherever. The proposed plans for limiting and restricting if implemented will serve to weaken the base of real local evolving citizenry in favor of vacation rentals and pricey tourism activities.

Please do not succumb to the relative ease of making these unsound, intrusive and unnecessary interventions.

With thanks for your kind attention,



Ned Hoke OMD

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

March 9, 2015

Kevin Kahn
Supervising Coastal Planner
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

RECEIVED
MAR 16 2015
CALIFORNIA
COASTAL COMMISSION

Dear Mr. Kahn,

We do not support the requirement for a Coastal Development Permit for new Home Occupation businesses. A CDP would be cost prohibitive. Such businesses have minimal impacts on the surrounding community, which is why the County defines them as a Permitted Use.

If the CCC is not willing to remove this requirement, I strongly support a De Minimis waiver process to ensure that such low-impact home businesses can avoid the high costs of a CDP.

Sincerely,

Kris Boun Inverness, CA
Chitra M. Candam Woodacre CA -

Ezell Mc Isaac Pt. Reyes Station

Heather Smith Point Reyes Station

Kathryn Callaway Woodacre

Margaret Ridge, Inverness

Barbara Gorman, Inverness

Cathleen Derinsa, Pt Reyes Sta

Bonnie Jank, Point Reyes Station

Louise Landreth, Inverness

Katharine Coon Pt. Reyes Station

Trinka Morris - Point Reyes Station

Mary C. Morgan, Point Reyes Station

cc: Marin County Board of Supervisors

Patricia Bonnerman Point Reyes Station
Susan Hinge, Pt. Reyes Sta.

2/27/15

Gentlemen:

I am writing to comment on the CCC's Suggested Modifications to the Marin LCP Implementation Plan.

Artisanal home businesses are an important part of the economic and cultural life of our communities in the coastal zone. They have widespread support in our communities.

I oppose requiring that home occupancy businesses be required to get a use permit & coastal permit. Such fees would be prohibitive for local citizens making a livelihood from their homes.

I urge the CCC to adopt a policy that allows home occupancy businesses as a permitted use in the coastal zone.

Thank you.

Patricia A. Bradford
445 Cedar St.
Bolinas CA 94924

RECEIVED
MAR 09 2015
CALIFORNIA
COASTAL COMMISSION

From: [manager](#)
To: Kahn_Kevin@Coastal
Cc: bos@marincounty.org
Date: Thursday, February 26, 2015 1:42:58 PM

Mr. Kevin Kahn
Supervising Coastal Planner
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

Re: Modifications on the Marin L.C.P./ Development Code

Dear Mr. Kahn,

Home occupation businesses have been one of the most significant mainstays of self support employment in our W. Marin communities since I first came here and settled in 1971. Many of these represent the most often primary, routinely modest income sources for a relatively large portion of our population. In my own case it's been so for most of 40 years.

As in the Marin County protocols home occupancy businesses do not place restrictions on use of accessory structures as apparently your staff plan does. This becomes a radical and unnecessary limitation of the small natures also of artisanal starting businesses our young choose to invest themselves in. Such fees and restrictions are prohibitive. Surely there are many of our local businesses who have some occasional help and this one size fits all restriction blended with what seems to be extreme taxation is most unwelcome in concept and fact.

I do not deny the desirable principle of coastal zone oversight. I could accept some planning that provides teeth for authorities to help keep neighborhoods untroubled with unwelcome industrializations/commercializations such as can be imagined in a "cottage industries" type of designation. If that is the actual purpose of your staff proposal vs, merely a sheep's clothing over tax-primary purpose then surely at the

very least accepting, the Marin County home occupancy business no permit needed, and some better imagined stepped consideration for those who may have an employee or two.

Public employees might not be as alert to the self-employed locals rather than those who live with the security and privileges of pensions or sufficient personal wealth from wherever. The proposed plans for limiting and restricting if implemented will serve to weaken the base of real local evolving citizenry in favor of vacation rentals and pricey tourism activities.

Please do not succumb to the relative ease of making these unsound, intrusive and unnecessary interventions.

With thanks for your kind attention,

Ned Hoke OMD
475 Grove Rd
Bollinas, CA 94924

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

From: [Jerelyn Jacobson](#)
To: [Kahn, Kevin@Coastal](mailto:Kahn.Kevin@Coastal)
Cc: bos@marincounty.org
Subject: Home businesses in residential zones
Date: Wednesday, February 25, 2015 8:34:47 AM

Dear Sirs and Madams,
Although I don't have a home business that would be affected, I'd like to weigh in on behalf of many neighbors and friends. Home occupancy businesses are one of the only ways for many local people to support themselves with their own businesses in our rural communities. Those with no outside employees are not "cottage industries", have little or no added impact in their neighborhoods, and should be a non-taxed, permitted use in the coastal zone.

Regards,
Jeri

Jeri Jacobson
P O Box 712
Point Reyes Station, CA 94956

From: [Eleanore Despina](#)
To: [Kahn, Kevin@Coastal](mailto:Kahn.Kevin@Coastal)
Subject: Exemption for Home Occupation Businesses
Date: Thursday, February 19, 2015 9:07:41 PM

Dear Mr. Kahn,

I am one of thirty artists in the Point Reyes community who work at home and sell their art at Point Reyes Open Studios during two weekends a year. Most of these artists gross under \$10,000 per year and many, including myself, gross under \$5,000 per year. Yet we enliven our community with wonderful art and enrich our neighbors and the visitor community alike with the work we do. If the suggested modifications to the Local Coastal Plan are implemented, our Open Studio tour would end, and almost all of us would be forced to stop creating the art that contributes to the rich diversity of this community.

I urge you to adopt an exemption from these rules for the tiny home occupation businesses that allow the arts, small artisans, and other little start ups with no employees to flourish here and help make our community economically viable, and socially rich.

Thank you for your consideration of these views.

Sincerely,
Eleanore Despina

Sent from my iPad

--
Eleanore Despina
PO Box 478
Point Reyes Station, CA 94956

From: [Hilary Winslow](#)
To: [Kahn, Kevin@Coastal](mailto:Kahn_Kevin@Coastal)
Cc: hilarywinslow@earthlink.net
Subject: citizen input: local coastal plan Marin, implementation plan
Date: Thursday, March 05, 2015 10:47:43 PM

Dear members of the Coastal Commission:

Please be advised that as a long-time resident of rural Marin County, I don't support a requirement for a coastal development permit for new home occupation businesses, since they would surely be cost prohibitive. Such use is permitted by the county, and there is no need for additional scrutiny or expense for these operations, which are low impact. In fact, there are two home businesses operating within a block of my home on a dirt road in Bolinas, and we have never had any issues in the almost twenty years of my residence here.

If the coastal commission won't give up on the idea of including such a requirement, I urge the ccc to at least adopt a "de minimis" project waiver application process. With all due respect, these low-impact home businesses can operate without the onerous permitting the ccc has been considering. The choice is clear!

Sincerely,

Hilary Winslow
POB 576
Bolinas CA 94924

February 22, 2015

Kevin Kahn, Supervising Coastal Planner
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508
Kevin.Kahn@coastal.ca.gov

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

Re: My Opposition to the California Coastal Commission's Suggested Modifications to the Marin County Local Coastal Program Implementation Plan.

I am a local Inverness nature photographer, a hobbyist holding a business license, working out of my home. I have no employees. I am a member of The Point Reyes Open Studios, (PROS). Biannually, we hold open studios from our homes. Occasionally, I make a sale.

I write this letter to respectfully request the California Coastal Commission (CCC) recognize Marin County's Local Coastal Program ((LCP) regarding its differentiation between "Home Occupancy" businesses, which have no employees, and "Cottage Industries" which have outside employees. There is a difference and perhaps, through oversight, this subtle difference was not recognized.

It is my understanding that the CCC proposes to require "Cottage Industries" users to obtain a Use Permit and a Coastal Permit. We (PROS participants) do not fall under this category. However, if the interpretation were otherwise, the fees could cost an applicant tens of thousands of dollars. Such a requirement would put an end to local artists' business ventures. And, even a lessor fee is unaffordable.

I, along with other PROS members, and to the best of my knowledge other non-member local artists, do not fall within the purview of Marin's "Cottage Industries" designation. Accordingly, we should not be subject to any CCC permit requirement. Further, I do not feel we should be subject to CCC permits and fees under any circumstances.

And, in a sense, we are an informal arm of the California Coastal Commission. Please read on:

As I understand it, the primary purpose of the California Coastal Commission is the preservation of the California coast including its wildlife and flora habitat.

Preservation begins with awareness.

My photographs along with those of my fellow local photographers, and the detailed work of other local artists including water color paintings, oil canvas paintings, beach-craft displays, wood carving, and the like provide the viewer with a stunning awareness of the Marin 's coastline, its beauty and its nature habitat. This is a wonderful awareness venue.

Kindly give my letter your full attention and consideration. It is my hope the suggested modifications will be withdrawn thereby exempting us from CCC permit requirements.

Respectfully,

Ed Stetson
(Ed Stetson Photography.com)
#2 Upper Robert Drive
Inverness, CA 94937

cc:
Marin County Board of Supervisors Supervisors

From: [Eleanor Lyman](#)
To: Kahn_Kevin@Coastal
Cc: bos@marincounty.org
Subject: California Coastal Commission Proposal
Date: Friday, February 27, 2015 12:08:00 PM

Dear Kevin Kahn,

I am writing to comment on the C.C.C.'s Suggested Modifications to the Marin L.C.P. Implementation Plan
(e.g. development code)

Artisanal home businesses are an important part of the economic and cultural fabric of our communities in the coastal zone and are one of the only ways for many local people to start their own businesses in our rural communities. These artisanal businesses have widespread support in our communities.

I strongly oppose requiring that home occupancy businesses (no outside employees) be required to get a use permit and coastal permit!

It's a de facto prohibition on starting new artisanal businesses, because most people could not afford the prohibitively high permit costs. Such permit fees would be the nail in the coffin for the next generation of local citizens making a livelihood out here through starting their own businesses unless they are already wealthy.

A solution could be that Marin County differentiates between home occupancy businesses (no outside employees) and cottage industries (outside employees), and does not place additional restrictions on the use of accessory structures on the property. Home occupancy businesses should be treated as a permitted use.

I urge the C.C.C. to adopt a policy that allows home occupancy businesses (no outside employees, use of accessory structures) as a permitted use in the coastal zone.

Thank you.

Eleanor Lyman

Box 291

Bolinas, California 94924

From: [Laura Arndt](#)
To: [Kahn, Kevin@Coastal](mailto:Kahn.Kevin@Coastal)
Subject: C.D.P.
Date: Tuesday, March 03, 2015 6:17:41 PM

Dear Mr. Kahn,

I am writing to say I do not support the requirement for a coastal development permit for new Home occupation businesses. They are cost prohibitive and we need to support people in their efforts to make ends meet.

Please don't be another example of government interfering needlessly in people's business.

Thank you

Laura Arndt

point reyes station

Scenario	Total number of C-APZ parcels (excluding public and split)	Number of MALT parcels	Number of Williamson Act contract parcels (not ranches)	Existing dwelling units	Potential additional farmhouse units	Potential additional intergenerational units	Total potential buildout (existing + proposed)
CCC Count: C-APZ parcels, excluding MALT parcels	232 [†]	40	n/a	132 [†]	48*	93 [∧] (27 because of LUP cap)	207
County Scenario 1: C-APZ parcels, excluding MALT and Williamson Act parcels	193	40	123	122	83	27	232
County Scenario 2: C-APZ parcels, excluding MALT parcels	193	40	n/a	122	83	84 (27 because of LUP cap)	289

[†]Difference results from split zones: The discrepancy between CCC's C-APZ parcel count and the County's count from 2013 (and the number of existing dwelling units) results from the County's exclusion of all parcels that touch the Coastal Zone boundary. CCC's count included parcels where the majority of the parcel appeared to be located within the Coastal Zone.

*Difference results from consideration of common ownership: The County's analysis of potential additional farmhouse units did not take common ownership into account. The proposed IP policy states that owners must identify all parcels under common ownership when applying for a farmhouse. Therefore, the CCC count of 48 is a more accurate reflection of build-out under the proposed policy. CCC's analysis shows a potential total of 94 additional intergenerational units, which highlights the importance of the approved LUP's cap of 27 additional intergenerational units.

[∧]Difference results from consideration of Williamson Act: Although the County's analysis had relied on the reduction in development potential provided by Williamson Act contracts, CCC's analysis did not reflect that reduction because Williamson Act contracts can expire. However, both analyses reflected the elimination of development potential provided by MALT easements.

Property ID	Acres	Combined acreage	TYPE*	Existing Units	Square footage		Will. Act	MA LT	Build out			
					House	Acc.			FH	IG1 (PPU)	IG2 (Cond)	
100-100-17	204.44	204.44	SINGLE	2	2292	784	N	N	0	0	1	
104-030-03	4.72	4.72	SUBSTANDARD	1	552		N	N	0	0	0	
106-210-67	0.89	0.89	SUBSTANDARD	0			N	N	1	0	0	
104-040-31	71.74	71.74	SINGLE	0			N	N	1	0	0	
100-060-02	26.12	26.12	SINGLE	0			?	?	1	0	0	
119-060-32	25.11	25.11	SUBSTANDARD	0			N	N	1	0	0	
100-020-03	119.29	245.50	RANCH	0			Y	N	0	1	1	
100-020-26	126.21	245.50	RANCH	1			Y	N	0	1	1	
106-210-07	0.36	0.36	SUBSTANDARD	1	1518	288	N	N	0	0	0	
100-020-05	14.71	217.07	RANCH	0			Y	N	0	0	0	
100-020-27	202.36	217.07	RANCH	3			Y	N	0	0	0	
100-020-01	20.11	20.11	SUBSTANDARD	0			Y	N	1	0	0	
106-220-05	400.00	1001.00	RANCH	0			?	?	1	1	1	
106-220-04	601.00	1001.00	RANCH	0			?	?	1	1	1	
100-030-02	1.29	1.29	SUBSTANDARD	1	1507		N	N	0	0	0	
100-050-43	266.64	266.64	SINGLE	0			?	?	1	1	1	
104-040-24	52.63	52.63	SUBSTANDARD	1			N	N	0	0	0	
100-030-16	149.47	149.47	SINGLE	0			Y	N	1	1	0	
104-040-06	3.56	8.80	SUBSTANDARD	0			N	N				
104-010-12	0.03	8.80	SUBSTANDARD	0			N	N				
104-010-10	0.03	8.80	SUBSTANDARD	0			N	N				
104-010-09	0.03	8.80	SUBSTANDARD	0			N	N				
104-010-11	0.03	8.80	SUBSTANDARD	0			N	N	0	0	0	
104-010-14	0.07	8.80	SUBSTANDARD	0			N	N				
104-010-13	0.03	8.80	SUBSTANDARD	0			N	N				
104-010-17	4.62	8.80	SUBSTANDARD	1	1228	494	N	N				
104-010-18	0.38	8.80	SUBSTANDARD	0			N	N				
104-040-10	169.58	306.87	RANCH	0			Y	N	0	4	4	

100-090-09	137.29	306.87	RANCH	1	2035		Y	N	0				
100-040-05	261.10	1096.57	RANCH	0			Y	N					
100-010-04	291.28	1096.57	RANCH	1			Y	N	0	1	1		
100-010-03	544.19	1096.57	RANCH	0			Y	N					
100-050-31	124.22	124.22	SINGLE	1			Y	N	0	1	0		
100-050-08	73.34	364.75	RANCH	0			Y	N					
100-050-07	291.41	364.75	RANCH	1	1253		Y	N	0	1	1		
100-090-05	286.06	286.06	SINGLE	2			Y	Y	0	0	0		
104-040-09	18.09	18.09	SUBSTANDARD	1	3752	820	N	N	0	0	0		
100-030-07	159.72	159.72	SINGLE	1			N	N	0	1	0		
100-050-34	4.01	4.01	SUBSTANDARD	1	2204		N	N	0	0	0		
104-040-29	284.26	284.26	SINGLE	1			N	N	0	1	1		
119-060-02	0.34	0.34	SUBSTANDARD	1	768	264	N	N	0	0	0		
104-050-17	314.64	314.64	SINGLE	2			Y	N	0	0	1		
119-020-17	0.87	1.40	SUBSTANDARD	0			Y	N					
119-020-11	0.53	1.40	SUBSTANDARD	1	3380		N	N	0	0	0		
119-020-27	287.31	788.00	RANCH	0			Y	N					
119-020-25	426.55	788.00	RANCH	0			Y	N	1	1	1		
119-020-29	74.98	788.00	RANCH	0			Y	N					
104-130-27	601.93	2229.00	RANCH	1			Y	N					
104-130-18	289.32	2229.00	RANCH	0			Y	N					
104-130-17	421.92	2229.00	RANCH	0			Y	N	0	0	1		
104-120-01	314.61	2229.00	RANCH	0			?	?					
104-120-10	277.78	2229.00	RANCH	0			?	?					
104-110-09	324.00	2229.00	RANCH	1	1257		?	?					
106-220-22	194.71	194.71	SINGLE	0			N	N	1	1	1		
100-030-24	162.82	165.02	RANCH	0			Y	N					
100-030-22	2.19	165.02	RANCH	1			N	N	0	1	0		
100-030-23	177.32	177.32	SINGLE	1			Y	N	0	1	0		
100-050-41	5.31	5.31	SUBSTANDARD	1			Y	N	0	0	0		
100-090-18	12.36	64.84	RANCH	0			Y	N					
100-090-17	52.48	64.84	RANCH	0			Y	N	1	0	0		
121-010-01	588.65	588.65	SINGLE	0			?	?	1	1	1		
119-010-32	127.06	602.28	RANCH	0			Y	N					
119-010-07	475.22	602.28	RANCH	0			Y	N	1	1	1		
119-050-17	337.69	337.69	SINGLE	3			N	N	0	0	0		

100-040-21	258.96	1251.13	RANCH	1	468		N	N				
100-040-04	0.53	1251.13	RANCH	1	468		N	N				
100-040-22	508.39	1251.13	RANCH	1	2205		N	N	0	0	0	
100-040-23	483.25	1251.13	RANCH	0			N	N				
166-010-32	60.49	60.49	SINGLE	0			Y	N	1	0	0	
100-090-07	344.84	344.84	SINGLE	0			Y	Y	0	0	0	
106-210-10	212.46	822.46	RANCH	3			N	Y				
106-110-06	610.00	822.46	RANCH	0			?	?	0	0	0	
100-050-26	16.25	16.25	SUBSTANDARD	1	2169		N	N	0	0	0	
104-130-21	1.10	1.10	SUBSTANDARD	1	3653		N	N	0	0	0	
106-220-35	178.49	178.49	SINGLE	0			N	N	1	1	0	
106-210-77	817.48	817.48	SINGLE	1	3995	532	?	?	0	1	1	
104-040-22	50.32	50.32	SUBSTANDARD	0			N	N	1	0	0	
100-090-06	301.83	301.83	SINGLE	2			Y	Y	0	0	0	
100-060-26	79.10	79.10	SINGLE	1	2228		?	?	0	0	0	
104-040-19	54.04	54.04	SUBSTANDARD	0			N	N	1	0	0	
119-010-35	456.97	852.84	RANCH	2			N	N				
119-010-34	217.00	852.84	RANCH	0			N	N	0	0	1	
119-060-35	178.87	852.84	RANCH	0			N	N				
188-090-06	68.00	68.00	SINGLE	2	1520	240	N	N	0	0	0	
100-040-30	159.95	159.95	SINGLE	1			Y	N	0	1	0	
106-210-12	163.79	163.79	SINGLE	0			?	?	1	1	0	
100-050-29	157.03	157.03	SINGLE	1	1322		Y	Y	0	0	0	
100-020-17	184.95	319.41	RANCH	1			Y	Y				
100-020-18	134.46	319.41	RANCH	0			Y	Y	0	0	0	
100-090-03	60.44	60.44	NONCONTIGUOUS	0			Y	N	1	0	0	
100-020-21	78.35	318.56	RANCH	0			Y	Y				
100-020-20	174.20	318.56	RANCH	1			Y	Y	0	0	0	
100-020-22	66.01	318.56	RANCH	0			Y	Y				
100-040-12	50.97	50.97	NONCONTIGUOUS	1			Y	N	0	0	0	
100-090-04	179.46	179.46	SINGLE	0			?	?	1	1	0	
121-030-17	165.00	165.00	SINGLE	0			?	?	1	1	0	
100-100-48	209.00	209.00	SINGLE	0			?	?	1	1	1	
104-010-21	0.19	0.19	SUBSTANDARD	1	1160		N	N	0	0	0	
100-060-33	210.14	210.14	SINGLE	1	1440		?	?	0	1	1	
100-100-21	1.87	1.87	SUBSTANDARD	1	1456		N	N	0	0	0	

100-100-59	344.15	344.15	SINGLE	0			Y	N	1	1	1	
100-100-07	4.05	218.00	RANCH	0			Y	N				
100-100-22	162.96	218.00	RANCH	1			Y	N				
100-100-08	13.58	218.00	RANCH	0			Y	N	0	1	1	
100-220-06	5.42	218.00	RANCH	0			Y	N				
100-230-03	32.77	218.00	RANCH	0			Y	N				
106-210-68	25.47	262.66	RANCH	1			Y	N	0	0	1	
106-210-38	237.19	262.66	RANCH	1			Y	N				
100-050-40	167.02	167.02	NONCONTIGUOUS	0			Y	N	1	1	0	
104-050-13	10.00	101.83	NONCONTIGUOUS	0			?	?				
104-050-12	91.83	101.83	NONCONTIGUOUS	0			?	?	1	0	0	
100-100-05	197.16	197.16	SINGLE	1			Y	N	0	1	1	
106-210-72	61.59	61.59	SINGLE	0			Y	N	1	0	0	
106-220-20	150.27	150.27	SINGLE	0			N	N	1	1	0	
100-030-11	152.60	152.60	SINGLE	0			?	?	1	1	0	
102-100-01	13.26	13.26	SUBSTANDARD	0			?	?	1	0	0	
119-050-15	46.22	1053.15	RANCH	0			N	N				
119-050-16	27.07	1053.15	RANCH	0			N	N	0	1	1	
119-050-11	502.69	1053.15	RANCH	0			N	N				
119-030-03	477.17	1053.15	RANCH	1			N	N				
188-120-29	81.80	81.80	SINGLE	1			Y	N	0	0	0	
119-020-08	0.67	0.67	SINGLE	0			N	N	1	0	0	
119-020-07	596.82	597.49	SINGLE	1			Y	N	0	1	1	
100-050-32	259.70	259.70	SINGLE	3			N	N	0	0	0	
100-050-30	176.11	316.93	RANCH	0			Y	N				
100-050-06	120.15	316.93	RANCH	2			Y	N	0	0	1	
100-050-05	20.67	316.93	RANCH	0			Y	N				
100-050-12	3.51	189.20	NONCONTIGUOUS	0			Y	N				
100-050-37	185.69	189.20	NONCONTIGUOUS	1	4895		Y	N	0	1	1	
104-040-28	5.27	5.27	SUBSTANDARD	0			N	N	1	0	0	
100-030-01	2.93	2.93	SUBSTANDARD	1	2835	960	N	N	0	0	0	
100-050-14	0.98	1.41	SUBSTANDARD	1	2390	360	N	N				
100-050-36	0.43	1.41	SUBSTANDARD	0			Y	N	0	0	0	
100-030-14	308.27	327.80	RANCH	1			Y	Y	0	0	0	
100-030-04	19.53	327.80	RANCH	1			Y	Y				
100-040-09	92.89	251.62	RANCH	1			Y	N				

100-050-01	65.38	251.62	RANCH	0			Y	N	0	1	1	
100-050-02	45.07	251.62	RANCH	0			Y	N				
100-040-10	48.28	251.62	RANCH	0			Y	N				
100-020-19	131.09	131.09	SINGLE	1			Y	Y	0	0	0	
188-090-13	99.57	99.57	SINGLE	2	3848		Y	N	0	0	0	
166-161-14	1.12	1.12	SUBSTANDARD	0			N	N	1	0	0	
100-050-19	107.92	107.92	SINGLE	0			N	N	1	0	0	
106-250-06	297.53	297.53	SINGLE	0			?	?	1	1	1	
119-050-14	1242.77	1242.77	SINGLE	1			Y	Y	0	0	0	
100-010-06	1.08	1.08	SUBSTANDARD	1	1635		N	N	0	0	0	
100-050-33	4.03	4.03	SUBSTANDARD	2			N	N	0	0	0	
188-120-36	65.35	65.35	SINGLE	1	1418		?	?	0	0	0	
119-010-09	300.00	810.00	RANCH	0			?	?				
119-010-10	510.00	810.00	RANCH	0			?	?	1	1	1	
100-050-42	197.21	370.37	RANCH	1	1716		Y	Y	0	0	0	
100-090-15	173.16	370.37	RANCH	1			Y	N				
100-030-09	97.45	360.22	RANCH	0			Y	N	0	0	1	
100-060-01	262.77	360.22	RANCH	2			Y	N				
100-020-15	227.69	227.69	SINGLE	0			Y	N	1	1	1	
104-030-06	4.62	4.62	SUBSTANDARD	0			N	N	1	0	0	
104-110-10	372.13	750.00	RANCH	0			?	?				
104-110-02	377.87	750.00	RANCH	0			?	?	1	1	1	
100-060-12	187.59	257.59	RANCH	1	2378	624	?	?	0	1	1	
100-060-14	70.00	257.59	RANCH	0			?	?				
100-050-16	162.01	251.14	RANCH	0			Y	Y				
100-050-38	89.13	251.14	RANCH	1	3320		Y	Y	0	0	0	
100-030-10	132.00	132.00	SINGLE	0			?	?	1	1	0	
100-020-13	134.92	359.28	RANCH	0			Y	Y				
100-020-14	224.36	359.28	RANCH	2	2928		Y	Y	0	0	0	
104-040-04	139.60	1070.99	RANCH	0			Y	Y				
100-100-16	147.93	1070.99	RANCH	0			Y	Y				
100-100-15	136.18	1070.99	RANCH	0			Y	Y	0	0	0	
104-040-03	96.21	1070.99	RANCH	0			Y	Y				
104-040-14	551.07	1070.99	RANCH	2			Y	Y				
100-040-24	192.26	249.07	RANCH	1			Y	Y				
100-040-07	51.79	249.07	RANCH	0			Y	Y	0	0	0	

100-040-27	5.02	249.07	RANCH	0			Y	Y				
100-100-29	168.53	414.56	RANCH	0			Y	Y	0	0	0	
100-040-28	246.03	414.56	RANCH	1			Y	Y				
104-040-33	587.63	587.63	SINGLE	1	2850		Y	Y	0	0	0	
104-130-42	1.27	86.07	RANCH	1			Y	N				
104-130-35	46.85	86.07	RANCH	0			Y	N	0	0	0	
104-130-41	37.95	86.07	RANCH	0			Y	N				
106-210-11	621.93	1167.93	RANCH	0			?	?				
106-230-02	74.00	1167.93	RANCH	0			?	?	1	1	1	
106-230-01	546.00	1167.93	RANCH	0			?	?				
104-130-25	22.59	22.59	SUBSTANDARD	1	3207		N	N	0	0	0	
119-020-23	322.80	733.13	RANCH	0			Y	Y	0	0	0	
119-020-22	410.33	733.13	RANCH	3			Y	Y				
119-030-02	545.55	925.55	RANCH	1			Y	N				
119-030-01	380.00	925.55	RANCH	1			?	?	0	0	1	
100-100-57	159	485	RANCH	0			N	N				
100-040-33	315.54	485.31	RANCH	0			N	N	1	1	1	
100-100-30	6.22	485.31	RANCH	0			N	N				
100-100-51	4.74	485.31	RANCH	0			N	N				
188-170-61	204.60	219.49	RANCH	3			Y	N	0	0	0	
188-170-62	14.89	219.49	RANCH	0			Y	N				
104-040-27	5.08	5.08	SUBSTANDARD	0			N	N	1	0	0	
104-110-06	397.15	397.15	SINGLE	0			?	?	1	1	1	
100-010-01	698.53	1486.48	RANCH	0			Y	Y				
100-010-05	184.88	1486.48	RANCH	0			Y	Y	0	0	0	
100-010-02	603.08	1486.48	RANCH	2			Y	Y				
100-020-25	1.82	310.49	RANCH	1			Y	N				
100-020-23	163.35	310.49	RANCH	0			Y	N	0	0	1	
100-020-24	145.32	310.49	RANCH	1			Y	N				
104-130-01	168.89	168.89	SINGLE	2			Y	Y	0	0	0	
104-130-48	295.54	482.80	RANCH	0			Y	Y				
104-130-47	187.25	482.80	RANCH	2	2754		Y	Y	0	0	0	
100-020-16	154.38	219.02	RANCH	0			Y	N				
100-050-09	64.64	219.02	RANCH	1	1842		Y	N	0	1	1	
100-020-11	181.01	206.85	RANCH	0			Y	N				
100-020-10	25.85	206.85	RANCH	1			Y	N	0	0	1	

100-020-07	69.36	230.00	RANCH	0			Y	N	1	1	1	
100-020-09	161.51	230.00	RANCH	0			Y	N	1	1	1	
100-020-12	73.39	73.39	SINGLE	1			Y	N	0	0	0	
100-020-08	96.19	96.19	SINGLE	0			Y	N	1	0	0	
100-050-27	149.64	192.25	RANCH	1			Y	N	0	0	1	
100-050-28	42.61	192.25	RANCH	1			Y	N	0	0	1	
100-090-13	199.82	431.28	RANCH	0			Y	Y				
102-100-07	8.92	431.28	RANCH	0			Y	Y				
102-100-06	53.96	431.28	RANCH	0			Y	Y	0	0	0	
102-140-20	144.49	431.28	RANCH	0			?	?				
102-140-19	24.09	431.28	RANCH	0			?	?				
106-210-70	1.96	1.96	SUBSTANDARD	0			N	N	1	0	0	
106-110-01	446.20	446.20	SINGLE	1	2598		?	?	0	1	1	
100-100-13	107.64	587.05	RANCH	1			Y	N				
100-100-04	112.43	587.05	RANCH	0			Y	N	0	0	0	
100-100-10	280.72	587.05	RANCH	2			Y	N				
100-100-03	86.26	587.05	RANCH	0			Y	N				
100-100-14	2.09	2.09	SUBSTANDARD	1	1560	520	N	N	0	0	0	
104-130-23	1.06	1.56	SUBSTANDARD	0			N	N	0	0	0	
104-130-24	0.50	1.56	SUBSTANDARD	1	1065		N	N				
106-220-34	145.72	145.72	SINGLE	3			N	N	0	0	0	
104-110-11	292.42	292.42	SINGLE	0			Y	N	1	1	1	
106-210-06	265.54	265.54	SINGLE	0			N	N	1	1	1	
104-130-02	306.26	306.26	SINGLE	3			Y	Y	0	0	0	
100-100-58	15.02		PUBLIC	0								
100-040-34	13.94		PUBLIC	0								
100-100-52	0.05		PUBLIC	0								
100-100-53	0.05		PUBLIC	0								
100-100-33	0.01		PUBLIC	0								
100-100-34	0.01		PUBLIC	0								
100-100-35	0.05		PUBLIC	0								
100-230-04	34.07		PUBLIC	0								
100-240-04	1.83		PUBLIC	0								
100-240-05	1.50		PUBLIC	0								
100-240-01	0.23		PUBLIC	0								
100-240-02	0.23		PUBLIC	0								

100-100-32	0.01		PUBLIC	0									
106-220-26	11.80		PUBLIC	0									
100-090-11	3.60		PUBLIC	0									
106-220-36	26.70		PUBLIC	0									
106-220-37	10.00		PUBLIC	0									
106-220-38	30.00		PUBLIC	0									
106-220-39	91.12		PUBLIC	0									
119-060-05	40.09		PUBLIC	0									
119-060-06	48.08		PUBLIC	0									
119-060-07	15.16		PUBLIC	0									
119-060-08	17.40		PUBLIC	0									
119-060-09	18.03		PUBLIC	0									
119-060-10	17.48		PUBLIC	0									
119-060-17	13.90		PUBLIC	0									
119-060-18	13.52		PUBLIC	0									
119-060-19	40.00		PUBLIC	0									
119-060-20	10.00		PUBLIC	0									
104-040-32	0.08		PUBLIC	0									
100-040-25	1.06		PUBLIC	0									
100-040-26	0.53		PUBLIC	0									
106-210-76	5.84		PUBLIC	0									
100-100-55	8.93		PUBLIC	0									
100-040-32	2.20		PUBLIC	0									
100-100-56	8.36		PUBLIC	0									
102-140-12	1.33		PUBLIC	0									
102-140-15	35.40		PUBLIC	1	3168								
104-050-18	34.06		PUBLIC	0									
166-010-24	227.07		PUBLIC	0									
166-010-26	104.87		PUBLIC	0									
166-010-05	2.07		PUBLIC	0									
166-010-06	4.50		PUBLIC	0									
166-010-04	1.00		PUBLIC	0									
166-010-07	5.69		PUBLIC	0									
166-010-25	97.36		PUBLIC	0									
166-030-16	461.00		PUBLIC	0									
166-010-31	432.50		PUBLIC	0									

166-010-27	213.06		PUBLIC	0									
166-010-21	5.00		PUBLIC	0									
166-010-20	573.12		PUBLIC	0									
109-090-07	521.83		PUBLIC	0									
119-240-66	4.47		PUBLIC	0									
119-040-26	364.01		PUBLIC	0									
119-040-28	167.10		PUBLIC	0									
TOTALS	43,677			132			126	40	48	48	45		
AVERAGE	152.19	404.95			2149				141				
									FH	IG1	IG2		
									(PPU)	(Cond)			

*substandard = parcel or parcels combined are less than 60 acres; single = only one parcel owned; ranch = multiple parcels owned;
non-contiguous = multiple, noncontiguous parcels owned

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
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**Memorandum****April 14, 2015**

To: Commissioners and Interested Parties

FROM: Dan Carl, North Central Coast District Deputy Director
 North Central Coast District

Re: *Additional Information for Commission Meeting*
Thursday April 16, 2015

Agenda Applicant
Item

Description

Th7a Marin Co. LCP Amend.
 No. LCP-2-MAR-13-0224-1
 (Part B) Marin IP Update

Correspondence, Amy Trainer
 Correspondence, Lori Kyle
 Correspondence, Kirk Wilbur
 Email, Kenneth Slaven
 Correspondence, Peter B. Sandmann
 Correspondence, Richard Kohn
 Correspondence, Stacy Carlsen
 Correspondence, West Marin Sonoma Coastal Advocates

Th8a 2-12-014 San Francisco Recreation
 and Park Dept.

Correspondence, Greg Roja
 Email, John Keener
 Correspondence, John Keener
 Email, Eric Smith
 Email, Jason Pitkin
 Email, Jay Johnston
 Email, Rich Cortese
 Email, Dana Kelly
 Email, Homer Hudelson
 Email, Rich Nessler
 Email, Joel Stewart
 Correspondence, Jackie Speier
 Email, Neal Desai
 Email, Kristin Kelsoe
 Email, Judy Neuhauser
 Email, Brian Hooper
 Email, Jodi Rodar
 Email, Jeff Volosing
 Email, Peter Graves
 Email, Brent Plater
 Email, Dave Landeck
 Email, Gary Fracchia
 Email, Ike Takahashi
 Email, Robert Hutchinson
 Email, Loretta Walter

Email, Victor B Eichler
Ex Parte Communication, Carole Groom
Correspondence, Surfrider Foundation
Email, Rebecca L Hartsell
Email, Matt Byrne
Email, Val Marjoricastle
Email, Hartson Doak
Email, Barbara Smolinski
Email, Marc Delucchi
Email, Carol Mathews
Email, Gayle Janzen
Email, Satya Vayu
Email, Pete Gandell
Email, Phoebe Sorgen
Email, Maya Elson
Email, Bonnie Neely
Email, Gail Gester
Email, Annie Organ
Email, Charlie Kaz
Email, Lisa Luther
Email, Fred Rinne
Email, Gwynn Mackellen
Email, Carol Hankermeyer
Email, Natalya Pouznar
Email, Stephanie Smarr
Email, Lee Rudin
Email, Brent Plater
Correspondence, Brent Plater
Correspondence, Lisa Wayne
Correspondence, Dennis J. Herrera
Email, Jenny Crofton
Email, Elaine Clark
Email, Toni Newman
Email, Gary Bailey
Email, Gayle Janzen
Email, Russell Weisz
Email, Mindy Meadows



April 10, 2015

Agenda Item TH7a, 4-16-15

Dr. Charles Lester, Executive Director
California Coastal Commission
Via email: CLester@coastal.ca.gov

Re: Marin Implementation Plan comments

Dear Dr. Lester,

The Environmental Action Committee of West Marin (EAC) has been continuously engaged in Marin County's LCP update for the past six years. The administrative record contains dozens of pages of EAC's technical analysis both on the County's 4,000+ pages of draft policy and development code language and on the Commission's modifications to the LCP documents submitted by Marin County. We have initiated and attended multiple meetings with the agricultural community and other stakeholders and our perspective has benefited greatly from these interactions. As the leading voice to protect the magnificent beauty, biodiversity, and rural character of West Marin since 1971, we have expended considerable time and resources to ensure that strong coastal protection policies continue to safeguard the unique setting of West Marin.

We are extremely grateful to your staff for their tireless work to address the nature of West Marin agricultural practices, environmentally sensitive habitats, and other important coastal resources in the Implementation Plan (IP). Your staff has truly done a remarkable job revising the IP that was submitted by Marin County to ensure that sustainable family farms can continue to thrive and to provide objective criteria to guide new development throughout our coastal zone.

The IP has almost all of the necessary standards to be a final component of our amended LCP. A few outstanding issues remain of concern; we outline them below. We hope that you and your staff will please consider these final recommendations prior to the Commission's hearing on Thursday, April 16th.

Thank you very much for your commitment to ensure that Marin's Amended LCP carries forward the strong coastal protections that have served this community so well for three decades.

1. Mariculture Onshore Facilities Allowance - 22.32.105.A

Issue: Some growers import 40% of the retail oysters they sell at onshore facilities on Tomales Bay from Baja California and Washington State. The IP must ensure that onshore facilities for mariculture operations are limited to coastal-dependent resources -- shellfish which are lawfully cultivated and harvested locally in Tomales Bay.

Recommendation: Revise last sentence of sub-section A. to read:

“Support provision of onshore facilities necessary for allowed shellfish production that is derived from cultivation and harvest in Tomales Bay waters.”

2. ESHA Buffer Reduction Allowance Standards – 22.64.050 A.1.c.

Issue: Limiting ESHA Buffer Reductions to the Principal Permitted Use for the zoning district. Marin’s Certified LCP states:

22.56.130I.F.3 - Where a finding based upon factual evidence is made that development outside a riparian protection or stream buffer area would be more environmentally damaging to the riparian habitat than development within the riparian protection or stream buffer area, *development of principal permitted uses* may occur within such area subject to design review and appropriate mitigation measures.

Recommendation: Add language to 22.64.050A.1.c. stating:

- 1) the proposed development may be modified by the Director in order to avoid ESHA Buffer encroachment, and
- 2) ESHA buffer exceptions will only be allowed for that zoning district’s Principal Permitted Use.

3. Agricultural Processing Nexus Needed - 22.65.040 C.1.f.2

Issue: The critical nexus between the product produced and the product processed by the farm owner is missing. As written, a coastal zone farm could process any product grown anywhere within all of Sonoma or Marin counties, thereby turning Marin’s coastal zone into a de facto commercial/industrial processing center.

Recommendation: Revise 22.65.040 C.1.f.2 to read:

With the exception of incidental additives or ingredients, agricultural products to be processed are produced on the same site, or on other agricultural properties located in Marin County or Sonoma County that are owned by the processing facility owner or operator.

4. Agricultural Retail Sales/Farm Stand Sales Nexus Needed - 22.65.040 C.1.f.6

Issue: The critical nexus between the product produced and the product sold by the farm owner is missing. As written, a coastal zone farm could sell any product grown anywhere within all of Sonoma or Marin counties, thereby turning Marin's coastal zone into a de facto commercial grocery center.

Recommendation: Revise 22.65.040 C.1.f.6 to read:

With the exception of incidental additives or ingredients, agricultural products to be sold are produced on the same site, or on other agricultural properties located in Marin County or Sonoma County that are owned by the retail sales owner or operator.

5. Standards Needed for Viticulture and Row Crop Development – 22.65.040.C

Issue: Converting grazing land to any type of new row crops or viticulture needs standards “that reflects the necessary specificity needed to ensure that specified non-appealable development is being appropriately sited and designed.” [Staff Report, p. 38] Marin County's Vineyard Erosion and Sediment Control Ordinance is insufficient to govern viticulture or row crops in the coastal zone – it is a ministerial permit that not is administered by the Community Development Agency, has no habitat protection standards, and allows development on 50% slopes. *See* EAC letter to CCC dated March 23, 2015 (Attached).

Recommendation: Add provisions to 22.65.040.C as follows:

1. **IP Standards govern row crop and viticulture development:** Include a statement that the Marin Vineyard Erosion and Sediment Control Ordinance, Marin Code Chapter 23.11, does not govern viticulture development in the coastal zone and instead all coastal permit regulations and standards in the updated LCP are applicable to any row crop or viticulture proposal.
2. **Prohibit slope development** of row crops and viticulture on slopes >25%.
3. **Affirmative authorization showing for surface impoundment water usage** if the proposed development would effect a change in the intensity of use of surface water impoundments - the applicant must make an affirmative showing from State Water Resources Control Board it has permission to irrigate from the impoundment for the purpose proposed.
4. **Require Design Review** to ensure that scenic and visual resources are not adversely impacted.
5. **Require well(s) to be metered** to monitor groundwater usage.
6. **Require a field survey** of nesting bird habitat based on the location and size of the proposed conversion area.
7. **Require an Agricultural Production and Stewardship Plan** if the property owner has not previously engaged in organic viticulture or row crop operations.
8. **Prohibit the use** of any pesticides, herbicides, or rodenticides as part of the intensified agricultural operation.
9. **Require Best Management Practices** and mitigation measures to address erosion, sedimentation, and habitat loss.

6. CDP Required for “Change In the Intensity of Use” Clarification – 22.68.060.E

Issue: This definition for what constitutes a “change in the intensity of use” requiring a coastal development permit is inconsistent with the use of this phrase in the Coastal Act’s definition of “development.”

Recommendation: Revise 22.68.060.E to read:

Improvements to a structure, other than a single-family residence, or to land or water sources which increase or decrease the intensity of such use.

7. CDP Required for “Water Wells and Septic Systems” Clarification – 22.68.060.H

Issue: This definition does not, but should, include reference to surface water impoundments, or the change in use of water sources or septic systems. The staff report [pp. 74-75] addresses the limited water supply issue so this addition is appropriate and necessary.

Recommendation: Revise 22.68.060.H to read:

The change in the use or intensity of use, including the expansion or construction, of water wells, septic systems and surface water impoundments.

8. CDP Required for Asphalt Paving >1000 square feet – 22.68.060.J

Issue: A coastal development permit is required to improvements to “structures” but this does not include paving existing dirt roads or driveways which create impermeable surfaces.

Recommendation: Add a sentence to 22.68.060.J to state:

This includes paving with asphalt or concrete any area, roadway, or driveway greater than 1,000 square feet.

9. Placement of Repair & Maintenance Dredging Spoils Near ESHA – 22.68.060.K

Issue: Dredged spoils should not be allowed to be located within 20 feet of a coastal water or stream, or within 50 feet of an ESHA. Mandatory 100-foot standards should be the threshold and standard, otherwise this automatically grants a buffer exception under 22.64.050.A.1.c without any required biological studies or impact findings.

Recommendation: Revise 22.68.060 K.2.b. and K.3. to state:

The placement of dredged spoils of any quantity within an ESHA, on any sandy area, within 100 feet of the edge of a coastal bluff or ESHA, or within 100 feet of coastal waters or streams. Any proposed placement of dredged spoils closer to an ESHA, coastal water, or stream requires a coastal development permit or a buffer reduction application per 22.64.050.A.1.

10. Notice Requirement for Categorical Exclusion Determination – 22.68.040.B

Issue: Notices of Categorical Exclusion determinations should be subject to the same requirement as all other notices to be posted by the County on its website at least on a weekly basis as required in 22.68.050.

Recommendation: Revise 22.68.040.B, 3rd sentence, to read:

In addition, the Director shall maintain, post on the Agency’s website at least weekly, and regularly transmit . . .

11. Protection of Visual Resources – 22.64.100.A.2.

Issue: There are no objective standards included in this provision to guide implementation of the Land Use Policy C-DES-2 for the protection of visual resources. Instead, section 22.64.100.A.2 merely states that “[d]evelopment shall be sited and designed to protect visual resources per Land Use Policy C-DES-2,” with nothing to inform the policy statement. We have repeatedly recommended that the IP include standards to state and ensure that development shall not “impair or obstruct” significant coastal views. Simply restating the policy objective does not provide any, let alone sufficient, guidance.

Recommendation: Add provisions to 22.64.100.A.2 as follows:

- 1) Define “public viewshed” as “the scenic area of Marin’s coastal zone as seen from public waters and recreation areas, like Tomales Bay, and numerous public beaches and trails, such as within Tomales Bay State Park and Point Reyes National Seashore.”
- 2) Replace existing reference to LUP policy with the following: “To assure that development shall be sited and designed to protect visual resources and not impair or obstruct the public viewshed, the preferred method for preserving scenic views from the public viewshed shall be to address any adverse impacts through site selection and design alternatives first, and then consider mitigation through vegetation screening.
- 3) All Categorical Exclusion Orders adopted or modified by the Commission as part of this LCP Amendment shall require compliance with these provisions.

12. Public Hearing Waiver for Minor Development Appealable to the Commission – 22.70.030.B.6

Issue: When the Director finds that a “minor development” satisfies the three criteria to qualify for a public hearing waiver, he/she should be required to make a detailed written determination explaining how the three requirements have been met, so that the public is provided sufficient information on which to base a decision whether to request a public hearing.

Recommendation: Revise the last sentence of 22.70.030.B.6 to read:

Such applications shall be accompanied by

- a) a statement of whether County decisions on the proposed development would be appealable to the Coastal Commission,
- b) a detailed analysis of the reasoning supporting such determination, and
- c) a detailed analysis discussing why the development meets each of the three requirements necessary to qualify as a “minor development.”

13. Definition of “Farm shed” – 22.130

Issue: There is no definition of the term “farm shed” provided.

Recommendation:

“Farm shed” will be defined as: “when an owner of property in the coastal zone proposes to sell or process its products at an agricultural retail sales facility or agricultural processing facility, respectively, on the owner’s property, the products to be sold or produced may be derived from any property that person owns in Marin or Sonoma County.”

14. Grading and Excavation Standards - 22.64.080.C

Issue: Subsection 2 (Preservation of landforms and native vegetation) needs to clearly state that grading and terracing are not allowed in ESHAs or ESHA buffers.

Recommendation: Add an additional sentence to 22.64.080.C.2 as follows:

Grading or terracing in an ESHA or ESHA buffer is not allowed without a Coastal Development Permit.

Thank you very much for your consideration of our comments.

Respectfully yours,

signature on file

Amy Trainer, Executive Director



MEMORANDUM

To: California Coastal Commission staff
From: Amy Trainer, executive director, EAC of West Marin
Date: March 23, 2015
Re: Concerns about viticulture development approval process in Marin

The Environmental Action Committee of West Marin (EAC) continues to be concerned about Marin County's reliance on its 2011 "Vineyard Erosion and Sediment Control" ordinance, Marin Code 23.11 (the "Vineyard Ordinance"). The County staff has stated at recent meetings about the LCP Amendment that the Vineyard Ordinance would govern all future viticulture development in the coastal zone.

EAC understands that unless the Coastal Commission certifies the Vineyard Ordinance as part of the Marin LCP Amendment, the Vineyard Ordinance cannot govern viticulture development in the coastal zone. Due to the many failings of the ordinance enumerated below, EAC strongly believes the ordinance should not govern viticulture development. Rather, viticulture development in the coastal zone is a land use matter that should be governed by specific standards for land use and sensitive resource protection. When the Board of Supervisors considered the Vineyard Ordinance, EAC raised numerous issues of concern regarding both substantive and procedural issues, none of which were addressed in a meaningful or substantive way either in the ordinance or since it was adopted.

Based on the concerns set forth below, EAC requests that you include a statement in the LCP Implementation Plan to the effect that the **Marin Vineyard Ordinance does not govern viticulture development in the coastal zone but all coastal permit regulations and standards in the updated LCP are applicable to any viticulture proposal.**

EAC's continued concerns with the Vineyard Ordinance include the following:

1. The Vineyard Ordinance may contradict or otherwise be inconsistent with various provisions of the Coastal Act, including Sections 30006, 30240, 30251, and 30603.
2. The Vineyard Ordinance vests sole authority to regulate and permit all activities associated with the planting or replanting of a vineyard - grading, terracing, ripping, soil chiseling, removal of vegetation, field road construction, installation of underground drainage systems and water supply systems - with the County's Agricultural Commissioner (the "Ag Commissioner"). See Sections 23.11.060 and 23.11.090 under the definition of "Initial vineyard planting work."
3. The Vineyard Ordinance establishes a ministerial permit system - the Ag Commissioner is required to issue a permit for the proposed vineyard development on slopes up to 50%

as long as a “County recognized qualified professional” issues a report saying the vineyard development is alright. A “County recognized qualified professional” can include a certified rangeland management specialist or “other registered or certified professional acceptable to the agricultural commissioner . . .” An actual licensed civil engineer report is required only in limited circumstances. Sections 23.11.090, .100, and .120.

4. The Ag Commissioner is not required to consult with the Community Development Agency – the sole agency authorized to implement the Local Coastal Program and issue development permits - or with the Department of Public Works – the agency that issues grading permits and oversees erosion control measures. Section 23.11.150.
5. The Vineyard Ordinance limits the Ag Commissioner’s review of the submitted erosion plan and proposal to develop a vineyard on slopes up to 50% to merely ensuring the plan was “prepared, reviewed, and certified in accordance with this chapter, and that the plan includes all of the information required by that section.” There are no substantive or meaningful standards to guide issuance of a permit. Section 23.11.150.
6. Section 23.11.090 puts limits on the use of “best management practices” by defining that term as “those practices or sets of practices that have proven to be the most effective feasible means of preventing or reducing stormwater runoff, erosion, and sedimentation in vineyards, *given technological, institutional, environmental, and economic constraints.*” (Emphasis added).
7. Section 23.11.170 does not establish the amount of riparian setback or give any standards for determining the appropriate setback distance. The provisions of the Marin County Code that the applicant “shall comply with” are not set forth. In general, the Code exempts agricultural activities from riparian setback requirements and the definition of “stream” in 23.11 is inconsistent with other provisions of the Code and LCP.
8. Section 23.11.190 states the erosion and sediment control plan requirements, but does not include actual requirements because there are none. Subsection (b)(2) states that the “agricultural commissioner shall prepare and maintain detailed plan requirements and have them available on request.”
9. This Vineyard Ordinance provides no oversight of surface water or groundwater use for vineyards. Vineyards consume an exceptionally large amount of water and have the potential to significantly impact community groundwater supplies. This ordinance provides no testing or monitoring requirements for the viticulture water source, including the number of new wells, their location, the amount of water used from each, requiring that a meter be placed on new and existing wells used for viticulture, and requiring monitoring reports be submitted to monitor overall groundwater levels and consumption. See 23.11.140.
10. The Vineyard Ordinance does not provide any public process for neighbors or the public to review and comment, or possibly appeal a proposed vineyard. The public should be afforded an opportunity to comment on a proposed vineyard’s size, location, construction near streams or impacts to wildlife and wildlife habitat, and other possible impacts. The only appeal provisions is for a person the Ag Commissioner finds has likely violated the

ordinance, yet the Commissioner is explicitly designated as the sole review authority for appeals.

11. This Vineyard Ordinance does not address the use of pesticides or other man-made chemicals that are often used by viticulture operators, nor does it address their impacts on the community water supply, bird and fish habitat, or nearby organically certified farms. See 23.11.140.
12. There is no indication that the erodible soils and slope standards are based on science or best practices.

Thank you for your consideration of our concerns.



April 12, 2015

Dr. Charles Lester, Executive Director
California Coastal Commission
Via email: CLester@coastal.ca.gov

Dear Dr. Lester,

The Environmental action Committee of West Marin (EAC) submits these supplemental comments on the Marin County LCP Implementation Plan. Thank you for your consideration of this addendum to our letter of April 10th.

1. Public Participation & Coastal Act Section 30006

EAC reasserts its past objection that the Amended LCP should not reduce, preclude, or otherwise restrain the “full public participation” for all coastal development matters as mandated by Coastal Act Section 30006.

Section 30006

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

Modifications made to the IP by the Commission staff to the notice and appeals procedures were welcome and essential. However, more is needed in order to comply with the clear mandate of Section 30006. The fundamental way that coastal programs are implemented is through development permits issued by the local jurisdiction.

For all new development that is not appealable to the Coastal Commission and does not require a discretionary permit, the public hearing requirement has been removed. The omission of a public hearing is a significant change that removes the existing public right to weigh in on proposals for development categorized as “principally permitted” in the agricultural production zone. **A public hearing requirement in these instances is all the more essential given that the public’s right to appeal to the Commission multiple kinds of new development in the C-APZ zoning district has also been removed from the long-standing practice under the Certified LCP.**

For example, in the Certified LCP inter-generational housing is not an identified use but, if allowed at all, would certainly require a conditional use permit and a public hearing with rights of appeal to the Coastal Commission. In contrast, in the proposed LCP Amendment the first inter-generational house is a Principally Permitted Use that must meet certain standards, but no public hearing is required. The “widest opportunity for public participation” under section 30006 would dictate that the County’s Deputy Zoning Administrator hold a hearing and take public input on the development proposal.

Similarly, the development of agricultural processing facilities or retail sales facilities requires a Use Permit, and therefore a public hearing, under the Marin Certified LCP. By reclassifying these facilities as “principally permitted” in the proposed LCP Amendment, the requirement of a public hearing is removed.

Recommendation: Please restore and retain public hearings for all development that is not appealable to the Coastal Commission.

2. Clarification that One Agricultural Processing Facility is Allowed per Farm.

It is unclear whether one (1) agricultural processing facility is allowed per legal lot or per farm in the C-APZ district. The last paragraph of C-AG-2 in the LCPA LUP says the County may include “all contiguous properties when reviewing a permit application,” but it does not *require* this.

Recommendation: Please clarify whether a processing facility is allowed per legal lot or per farm.

3. Background Information in Certified LCP

EAC reiterates our long-standing request to carry forward the substantive background information from the Certified LCP, particularly about the wealth of environmentally sensitive habitat areas like Tomales Bay, Bolinas Lagoon, and the Esteros Americano and San Antonio. Marin County has not provided any new studies to replace this information, nor has it provided any rationale for not including this pertinent information in the LCP.

Additionally, the agricultural section in the Certified LCP contains important background information about the importance of large contiguous land tracts (500-800 acres) for successful ranches and dairies. This information has not been updated but seems to be information pertinent to current agricultural practices. The Certified LCP also explains why allowing residential build-out toward the 60-acre zoning density would impair the future of family farming in the West Marin coastal zone.

Recommendation: Please retain all of this important background information in the Amended LCP.

4. Baseline for Future Development

For purposes of establishing a “baseline” of development in the coastal zone, EAC suggests that the Amended LCP should reference and cite the California Coastal Records Project as the “baseline” for considering individual and cumulative impacts to scenic and visual resources.

5. Categorical Exclusion Items and the Protection of Visual & Scenic Resources

The draft IP needs to add language to address the requirement that even categorically exempt development must protect public views or scenic coastal areas.

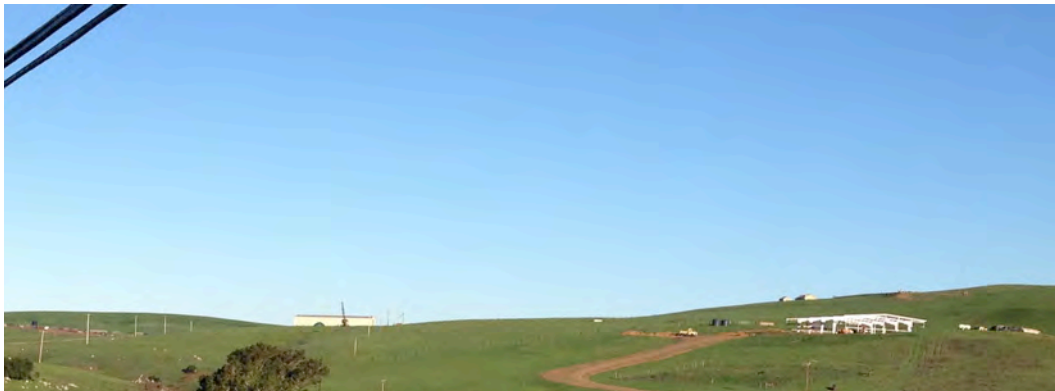
Public Resources Code Section 30251 states:

"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas."

Exclusion Order E-81-6 states:

The protection of the visual and scenic qualities is an important issue identified both in the Marin County Local Coastal Program and in the review of permit applications. In particular, the Coastal Act requires the protection of public views to and along the ocean and in scenic coastal areas. The approval of any significant structure in these areas requires careful consideration of the surrounding topography and the location to the development such that the public views are protected. Therefore, the Commission finds that *no exclusion can be granted for certain types of development in areas where public views or scenic coastal areas could be adversely impacted*. [Emphasis added].

The development and siting of agricultural buildings, including large barns, if not clustered within the main unit of buildings has the potential to adversely affect scenic and visual qualities of coastal areas.



Two new barns and access roads to them constructed with no permits and no public hearings north of Point Reyes Station on Highway 1.

In carrying out this exclusion order, the County is required to find that categorical exclusions do not have the potential to adversely affect coastal resources. Unfortunately, often no such review occurs.

The Commission should therefore review and circumscribe the categorical exclusion of “agriculturally-related development including (1) Barns, storage, equipment and other necessary buildings” to ensure that the visual impact of such developments is reviewed by the County.

Recommendation: Revise to 22.64.110.A as follows:

New development shall be located within, next to, or in close proximity to developed areas with adequate public services and where it will not have significant adverse impacts, either individually or cumulatively, on environmental and natural resources, scenic and visual resources, including coastal resources.

Revise first sentence of 22.68.040.A – Coastal Permit Not Required: Exempt Development as follows:

Development specifically designated as categorically excluded from the requirement for a Coastal Permit by Public Resources Code Section 30601(e) and implementing regulations is not subject to Coastal Permit requirements if such development is consistent with all terms and conditions of the Categorical Exclusion Order, including that the new development will not adversely impact public views or scenic coastal areas.

Thank you for your consideration of our comments.

Respectfully yours,

Signature [^] on file

Amy Trainer, Executive Director

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

April 12, 2015

California Coastal Commission
45 Fremont Street Suite 2000
San Francisco CA 94105-2219

Dear Chairman Kinsey and members of the California Coastal Commission:

I write on behalf of the East Shore Planning Group. The East Shore Planning Group is a California not-for-profit corporation formed in 1984 that has a membership 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. 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 LCP since the process began.

We support the provisions of the IP as approved by the Marin County Board of Supervisors in 2013, with the suggested additions underlined below:

22.32.027 – Agricultural Retail Sales and Facilities (Coastal)

(Coastal) *The standards of this Section shall apply to the sale of agricultural products as defined in Section 22.130.030 (“Sale of Agricultural Products”). For Agricultural and Resource-Related Districts outside the Coastal Zone, see Section 22.08.040.F.*

The sale of agricultural products is allowed as a Principal Permitted Use in the C-APZ zoning district provided it meets all of the following standards: (1) the building(s) or structure(s), or outdoor areas used for retail sales do not exceed an aggregate floor area of 500 square feet; (2)) with the exception of incidental additives or ingredients, agricultural products to be sold are produced on the same site, or on other agricultural properties located in Marin and Sonoma County that are owned or leased by the sales facility owner or operator; (3) the operator of the sales facility is directly involved in the agricultural production on the property on which the sales facility is located; and (4) sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the sales facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.

Use Permit approval is required for agricultural retail sales which exceeds an aggregate floor area of 500 square feet or for an agricultural retail sales facility of any size which does not comply with one or more of the four standards listed above.

These additions would recognize the “farmstand” provisions added to the draft LUP by the Commission in May 2014 and comments from the agricultural community.

Alternatively, we would also support the version proposed by CCC staff in its April 2, 2015 Staff Report (at p. 140 of the Staff Report), **but only with the addition underlined below:**

22.65.040 -- C-APZ Zoning District Standards (from Section (C))

***f. Other Agricultural Uses:** Agricultural Processing Uses and Agricultural Retail Sales Facilities/Farm Stands shall be classified as principally permitted agricultural uses only when also consistent with the following standards:*

... .

Agricultural Retail Sales Facility/Farm Stand

5. The building(s) or structure(s) or outdoor areas used for retail sales do not exceed an aggregate floor area of 500 square feet;

*6. Agricultural products to be sold are produced **by the operator of the sales facility** within the farmshed, defined as the same farm as the proposed sales facility, or on other agricultural properties located in Marin County or Sonoma County;*

7. The operator of the sales facility is directly involved in the agricultural production on the property on which the sales facility is located;

8. Sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the sales facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.

For agricultural retail sales facilities, it is critical to have a connection between the farmer or rancher and what is sold. Otherwise, any farm stand could sell cheese, wine, oysters, etc. produced by anyone in the region. The point of the “farmshed” amendment to the LUP was to expand the geographic area from which the operator could bring his own products, not to expand the sources to include agricultural products produced by others in the region.

Allowing the farm stand to sell products from other producers is a real threat to the east shore of Tomales Bay, where the Highway One tourist traffic would invite retail sales facilities essentially unrelated to the properties on which they are situated, or only related in a nominal way. Under the staff’s recommended language, even grazing land and fallow land could host such facilities.

These concerns do not apply to the same extent to small agricultural processing facilities, where it may be appropriate to process products from other producers in the region as a Principal Permitted Use.

Thank you for considering these comments.

Sincerely,

Signature on file

Lori Kyle, President

CALIFORNIA CATTLEMEN'S ASSOCIATION

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Th7a

California Cattlemen's Association

April 13, 2015

Chair Steve Kinsey
and Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

Via: Kevin Kahn, District Supervisor, LCP Planning (kevin.kahn@coastal.ca.gov)

**Re: Marin County Local Coastal Program Amendment Number LCP-2-MAR-13- 0224-1
Part B (Marin Implementation Plan Update).**

Dear Chair Kinsey and Honorable Commissioners:

CCA appreciates the opportunity to comment upon the Marin County Local Coastal Program Amendment Number LCP-2-MAR-13-0224-1 Part B (Marin Implementation Plan Update), and to comment upon the California Coastal Commission (Commission) staff's report on the Marin Implementation Plan Update.

Our detailed comments on the Marin Implementation Plan Update and Commission staff's recommendations will be provided at the April 16th Commission hearing in San Rafael. We submit these brief comments merely to **urge the Commission to defer final action on the Marin Implementation Plan Update until its May, June, or July hearings**, while nevertheless providing opportunity for public comment on this matter as scheduled at your April hearing.

CCA is concerned that the Commission has provided insufficient opportunity for the public to review and provide input upon the Commission staff's recommendations.

The Staff Report for the Marin Implementation Plan Update was completed on Thursday, April 2, and was made available to interested parties on Friday, April 3. While this provided the 10-days' notice required by California law prior to consideration by the Commission, it was nevertheless insufficient notice to provide interested stakeholders adequate time to meaningfully comment upon the Implementation Plan Update. The Staff Report for the Marin Implementation Plan Update is 785 pages long—a nearly impossible amount of information for a stakeholder to read, analyze, and comment upon in the 13 days prior to the Commission taking up the issue. Furthermore, any stakeholder wishing to have its written concerns made available to the Commission prior to the hearing must submit his or her "materials to the Commission no later than three working days before the hearing," cutting the opportunity to examine the document to a mere 10 days, including weekends. In the event that stakeholders are not able to provide

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MIKE SMITH
FEEDER COUNCIL VICECHAIR
SELMA

written comments in this short timeframe, they must distill their comments on the 785 page document down to a mere 5 minutes of verbal testimony.

While complying with the letter of the law, this short notice fails to comply with the spirit of the Coastal Act. The Coastal Act states that “[d]uring the preparation, approval, certification, and amendment of any local coastal program, the public . . . shall be provided maximum opportunities to participate.”¹ The limited opportunity to digest and provide feedback on the Staff Report for the Marin Implementation Plan Update fails to provide CCA and other stakeholders “maximum opportunities to participate.”

Additionally, **the Commission may legally defer its hearing and decision on the Marin Implementation Plan as late as July 27, 2015.** On April 27, 2014, Marin County filed their proposed Local Coastal Program Amendments, which triggered the CCC’s 90-day timeline for action on the proposed changes, establishing a deadline for action of July 27, 2014. However, at its June 11, 2014 hearing, the CCC adopted a motion, based upon good cause, to extend the deadline for Commission action on the Marin Implementation Plan Update by up to one year, establishing a new deadline of July 27, 2015.² **The Commission currently has three hearings scheduled prior to the July 27th deadline** (excluding the April 15-17 hearing): May 13-15 in Santa Barbara, June 10-12 in Newport Beach, and July 8-10 on the South Central Coast.

The lack of adequate opportunity to examine and comment upon the Staff Report for the Marin Implementation Plan Update is particularly dismaying in light of the request CCA made of the Commission as it considered the June 11 motion referenced above. In response to the Commission’s proposal to extend the time for consideration of the Marin Implementation Plan Update, CCA asked that “[w]hether or not your Commission votes to extend the time limit to act on the Marin County LCP Amendment Part B to July 27, 2015, **we ask that you direct your staff to release their staff report containing their Implementation Plan (IP) modifications at least 30 days prior to the hearing date when the Commission will act on the IP portion of the proposed LCP amendment.**”³

Finally, CCA is aware that at its most recent hearing, the Marin County Board of Supervisors adopted a motion authorizing the Director of the Community Development Agency, Brian Crawford, or his designee “to withdraw all or parts of the Local Coastal Program Amendments (“LCPA”) currently pending before the California Coastal Commission prior to the Commission’s final vote on the LCPA.”⁴ Mr. Crawford requested this authority to ensure that the

¹ CAL. PUB. RES. CODE § 30503.

² See Memorandum from Dan Carl, Deputy Director and Kevin Kahn, District Supervisor, LCP Planning to Coastal Commissioners and Interested Persons, *Extension of Time Limit for Commission Action on Marin County Local Coastal Program Amendment Number LCP-2-MAR-13-0224-1 Part B (Marin IP Update)* (May 30, 2014), available at <http://documents.coastal.ca.gov/reports/2014/6/W21b-6-2014.pdf> (containing motion language); California Coastal Commission June 2014 Agenda, Item 21(b), available at <http://www.coastal.ca.gov/meetings/mtg-mm14-6.html> (noting Commission approval of motion).

³ Letter from Kirk Wilbur, Director of Government Relations, California Cattlemen’s Association to Dr. Charles Lester, Executive Director, California Coastal Commission (June 9, 2014), available at <http://documents.coastal.ca.gov/reports/2014/6/W21b-6-2014.pdf> (emphasis in original).

⁴ Letter from Brian Crawford, Director of the Marin County Community Development Agency, to the Marin County Board of Supervisors (Apr. 7, 2015), available at http://marin.granicus.com/DocumentViewer.php?file=marin_06f6e3d2cc691cbfe288263e68ab7c3d.pdf [hereinafter


Director could “extract just those pieces of the proposed amendments” which “run[] counter to Marin County’s interests . . . so we can continue working on those with the Coastal Commission staff.”⁵ Unfortunately, the Marin County Board of Supervisors’ express delegation of authority creates uncertainty regarding what elements of the LCP and IP the County intends to submit for Commission consideration during its April 16th hearing, especially given that withdrawals may be made “at any time up to the commencement of the calling of the roll for a vote on any portion of the land use plan.”⁶ This added uncertainty makes it impossible for stakeholders to know what elements of the LCPA and IP will ultimately be under consideration when the Commission takes its vote, and further limit stakeholders’ limited ability to meaningfully provide input on the Implementation Plan Update.

CCA recognizes that the Commission desires to hear the Marin Implementation Plan Update during the Commission hearing in San Rafael to best ensure that Marin County residents are able to attend the meeting and voice their positions on the LCP and IP. We are sensitive to this desire, but also recognize the need for additional opportunity to examine and provide input upon the Marin Implementation Plan Update. **Thus, we request that the Commission maintain the agenda item on its April 16th agenda to permit residents of Marin County a convenient venue at which to express their comments regarding the Marin Implementation Plan Update, but we ask that the Commission also receive written and oral testimony at its May, June, and/or July hearing and that the Commission defer its final determination on the Marin Implementation Plan Update until the conclusion of this latter hearing.** This extension of comment and delay of decision will permit stakeholders sufficient opportunity to review the voluminous Staff Report, and will also provide Marin County and Commission staff additional time to negotiate upon outstanding issues, diminishing the need for the Marin County Community Development Agency Director to withdraw elements of the Marin Implementation Plan Update prior to Commission action.

CCA greatly appreciates the opportunity to provide input on the Marin Implementation Plan Update. We hope that the Commission will defer its final decision until a later date to provide CCA and other stakeholders the opportunity to provide *more meaningful* input, but we will participate at the April 16th hearing should the Commission nevertheless move forward on making a final decision at that time.

Sincerely,

Signature on file


Kirk Wilbur
Director of Government Relations
California Cattlemen’s Association

Marin Community Development Agency Memo]; see also video recording: Meeting of April 7, 2014, held by the Marin County Board of Supervisors, at 00:54:30 (Apr. 7, 2015) (*available at* http://marin.granicus.com/MediaPlayer.php?view_id=33&clip_id=7499) [hereinafter *April 7 Marin Supervisors Meeting*] (vote of the Board approving motion).

⁵ April 7 Marin Supervisors Meeting, *supra* n. 4, at 00:36:38.

⁶ Marin Community Development Agency Memo, *supra* n. 4, at 2 (quoting CAL. CODE REGS. tit. 14 § 13535(a)) (emphasis omitted).

From: [Kenneth Slayen](#)
To: Kahn_Kevin@Coastal
Date: Thursday, April 09, 2015 11:59:36 AM

Dear Mr. Kahn:

As I am unfortunately unable to attend the April 16 meeting, I am writing to you to share my concern about proposed changes to the county zoning rules affecting West Marin. I am not familiar with the details of the changes (I have not read the documents), but I believe i understand some of the basic reasons the changes are being proposed.

I have been a supporter of MALT for many years. Under MALT's umbrella, the agricultural community and the conservation community seem to be the same. However, the Farm Bureau is now pushing for changes that put the two communities on opposite sides of the fence.

I understand the financial difficulties the agricultural community must face. Old Marin families are sitting on land worth hundreds of millions of dollars, yet their operations may struggle (especially with this drought). Thankfully, the families have resisted (for the most part) the temptation to subdivide and sell to developers. I am grateful that MALT exists to both protect the land with the purchase of easements and ease the financial pressures of the ranching families by pouring equity into their operations through these purchases. I am also grateful of the Williamson Act and the Farmland Security Zones that afford great tax deductions to farmers, and finally i am simply grateful that the assessed value for property tax purposes on these enormous parcels is often minimal.

Having said all this, I am opposed to any zoning changes that would change the physical landscape of West Marin in any way. I know that the farmers would very much like to have it easier, but the expense to our wonderful Marin County would be devastating. Vineyards or storefronts along Pt. Reyes-Petaluma Road or in Hicks Valley, for example, would be heartbreaking! If more people in Marin knew, I think they would all be horrified at the thought! Therefore, I pray that the ability for public review of any new agricultural development be preserved at all cost.

I'll end by saying that the fiscal pressures of the ranching families is understandably brutal, and, in a way, they are the heroes bearing the greatest burden of conserving the lands as the have been since the 1850 when first "settled", but to change zoning laws for quick cash is irreversible!

Thank you for your time, and thank you for all you do!!!

Ken Slayen

LAW OFFICES
TESLER & SANDMANN

PETER B. SANDMANN

PLEASE REPLY TO:

PAULINE H. TESLER
CERTIFIED FAMILY LAW SPECIALIST
STATE BAR OF CALIFORNIA

→ MILL VALLEY OFFICE

SAN FRANCISCO OFFICE

April 8, 2015

VIA EMAIL ONLY

Nancy Cave, District Manager
North Central Coast District
California Coastal Commission
45 Fremont St #2000
San Francisco, CA 94105

Kevin Kahn, Supervising Coastal Planner
North Central Coast District
California Coastal Commission
Cooperhouse Shopping Center
725 Front St, No. 300
Santa Cruz, CA 95060

Re: Marin County Local Coastal Program amendments
Comments re IP in April Staff Report

Dear Ms. Cave and Mr. Kahn:

This is to follow up on our discussion about the latest iteration of the Implementation Plan portion of the Marin County Local Coastal Program, as drafted/modified by your office. We are concerned primarily with proposed Development Code Section 22.64.060 Environmental Hazards.

The approach of having the “reviewing authority” make an “initial site assessment” in order “to determine whether the site is or will be subject to geologic or other hazards” is a good way to screen proposed development projects. Unfortunately, the remainder of the proposed section makes that review moot by making it clear that every single application for a Coastal Permit will have to be evaluated with an Environmental Hazards Report prepared by “a qualified registered civil or structural engineer or licensed geologist or engineering geologist.” This is because the initial screening includes as “hazards” both “storms” and “those areas potentially inundated by future sea level rise.” In our discussion, it was suggested that “storms” means “major storms” but that qualification would do little to solve the problem. What is major is in the eye of the beholder. Furthermore, with the uncertainty that prevails regarding the amount of sea level rise that may occur during the next 100 years, it is clear that virtually all coastal development that is not on quite high ground will be “potentially inundated” depending upon which of the many opinions that is consulted.

As we pointed out, Section 22.64.060b, as written, states that virtually every Coastal Permit application, whether or not the site has been found to be subject to a hazard, must nevertheless have an Environmental Hazards Report. The first sentence in that subsection is

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Nancy Cave, District Manager
Kevin Kahn, Supervising Coastal Planner
Re: Marin County Local Coastal Program amendments
Comments re IP in April Staff Report
April 8, 2015
Page 2

written with commas that create a list, each of which is of equal import. Thus, if the “proposed development is on a blufftop,” “near the shoreline” (whatever that means), including “low lying elevations near the shoreline,” or “within 100 feet of an area potentially subject to . . . hazards,” then an Environmental Hazards Report must be prepared. Note that neither the blufftop nor the shoreline site needs to be at or near a hazard according to the way the section is written.

We also discussed the 1994 Settlement Agreement between Seadrift and the Coastal Commission and County of Marin (among other agencies). The addition of 22.64.060B.15 does not, in our opinion, solve the problem that we described in an earlier letter. The Settlement Agreement entitles the Seadrift Association to maintain the seawall on the Seadrift ocean beach in perpetuity (under conditions described in the permit), and for the ocean front lot owners to have the benefit of that seawall, but the IP is replete with statements that Coastal Permit applications will not be allowed to take into consideration any shoreline protective devices whatsoever. If County planners are going to apply the Development Code correctly, they need to be apprised that the Settlement Agreement is effective now and in the future with respect to the ocean front lots. That being the case, it would also be difficult to understand how an application for a Coastal Permit on behalf of a property that is not on the ocean beach but is instead within the interior of Seadrift could be denied on the basis that the seawall did not exist, since the Settlement Agreement specifically calls out the entire Seadrift sand spit as being the subject of the Agreement and as being covered by its provisions. I urge you to read the Agreement and its exhibits and then modify the IP accordingly, as the County had done in its original submission.

At our recent meeting we brought up the 100 year standard in the context that such a long and scientifically uncertain timeframe will almost inevitably result in arbitrary and capricious judgements by individual engineers and planners. We also have written to you previously on this subject. Considering that the IP as now drafted requires that development projects be designed so that they can be removed or relocated, it is clear that the single family homes that the Seadrift development consists of cannot be expected to last 100 years. The first few homes in Seadrift were built in the year 1950. Many or all of the homes of that generation, and many that have been built since that time have been demolished and replaced with new structures. The average lifetime of a single family home in Seadrift is clearly not 100 years. For that reason, we urge that you replace the language in the IP that requires an evaluation for ‘the development’s lifetime and a minimum of 100 years,’ with “the lesser of the development’s lifetime or 100 years.” There is no reasonable basis for requiring a hazards evaluation for 100 years if the proposed development project will not last nearly that long.

We also believe that the proposed IP still leaves local planners “at sea” with respect to determining the effect of sea level rise. Until the County’s C-Smart program reaches some conclusions regarding the sea level that will be used for planning purposes during the next century, asking each Coastal Permit applicant and his or her engineer to submit a plan that

Nancy Cave, District Manager
Kevin Kahn, Supervising Coastal Planner
Re: Marin County Local Coastal Program amendments
Comments re IP in April Staff Report
April 8, 2015
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responds to “potential” sea level rise, and then asking a County planner to evaluate that application without giving either of them any guidance or standard against which to measure their effort is an arbitrary way to approach this important issue. Pending the County’s determination of this issue, it would be prudent to require coastal development to meet the standards adopted by FEMA with regard to sea level, wave run up, and the like, rather than leaving that issue open for each individual’s interpretation and opinion. Unfortunately, the IP makes no effort to provide any guidance on this issue.

Finally, we discussed the use of caissons and deep pilings as architectural foundations for earthquake resilience and/or to meet FEMA requirements, where these are not used on the beach itself and are in no way designed to be shoreline protective devices for the prevention of erosion or beach retreat. Yet, we noted, recent changes to the proposed IP language explicitly add all "caissons/deep piers" to lists of prohibited or specially permitted shoreline protective devices with no regard to the distinction, thus hindering the ability of professionally trained architects and consulting engineers to create the very types of hazard-reducing designs and siting plans that Coastal Commission staff seems to be seeking. It seemed that several staff members present expressed surprise and were otherwise unaware that caissons and deep piers were used in this way. So we would strongly urge that the IP contain carveouts for such caissons and deep piers, which could be as simple as inserting "except where designed and used only for foundations and not for erosion protection or to prevent beach retreat"

Thank you for your continued courtesies with respect to these matters. The issues we are discussing are important and difficult to resolve. We appreciate being given the opportunity to offer our suggestions and ideas.

Sincerely,
Signature on file

Peter B. Sandmann

PBS:me

cc: Tom Lai (via email only)
Jack Liebster (via email only)

LCP-2-MAR-13-0224-1 Part B (Marin IP Update)
Item No.TH7a
Richard Kohn
Opposed

April 7, 2015
5 Ahab Drive
Muir Beach, CA 94965

Kevin Kahn
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

Re: Revisions to LCP Implementation Code
Hearing Date: April 16, 2015

Dear Kevin,

I am submitting these comments on the proposed Implementation Code. I am particularly gratified that the Commission Staff has rewritten the County's proposed section 22.70.120 regarding extensions of coastal permits.

Section 22.70.180 captioned "Potential Takings Evaluation" [p. 183-84 of 273] is facially invalid and should be deleted¹

In *Hensler v. City of Glendale* (1994) 8 Cal.4th 1, the California Supreme Court held that whether a constitutional taking has occurred is a judicial question that can be addressed only after administrative remedies provided by the state have been completed. Thus, contrary to this provision, a taking cannot be the reason for refusing to enforce a validly enacted statute or regulation. The Supreme Court, quoting from another case, says:

"a claim that the application of government regulations effects a taking of a property interest is not ripe until the government entity charged with implementing the regulations has reached a final decision regarding the application of the regulations to the property at issue...[U]ntil there has been a 'final, definitive position regarding' how the regulations will be applied to the land, a court cannot determine whether a compensable taking has occurred."

¹ While this entire section should be deleted, it appears that some paragraphs, possibly a subsection B, have been inadvertently omitted. Page 183 ends with par. 5 and page 184 picks up with another par. 4. Something has been left out.

Id. p.10. Later, the Court says: "We agree with the Healing court, [*Healing v. California Coastal Commission* (1994) 22 Cal.App.4th 1158] however, that an administrative agency is not competent to decide whether its own action constitutes a taking...." *Id.* p. 15-16. In other words, the role of the agency is to decide whether the development violates the LCP: Taking issues are for the courts to decide.

In *Healing* itself, the court had this to say about the authority of the Coastal Commission to decide takings issues: "...the Coastal Commission is not legislatively authorized to consider much of the evidence and many of the issues relevant to an inverse condemnation action. To the contrary, the Commission's powers and duties are only those vested in it by the Coastal Act....In short, the Commission is authorized to make and enforce rules and whether to grant permits. It is not an adjudicatory body authorized to decide issues of constitutional magnitude." ²Obviously, the same reasoning would apply to the Marin County Planning Commission or the Board of Supervisors.³

In addition to making clear that the agency is not competent to decide whether a taking has occurred, the Supreme Court in *Hensler* addressed the procedures that must be followed by the applicant in making a takings claim. In California, that requires filing an Administrative Mandamus action (as applied takings) or a Declaratory Judgment action (facial takings) to establish whether a taking has occurred; joined with or followed by an Inverse Condemnation action to determine damages, which must be tried by a jury unless waived. A necessary predicate to filing such an action is a final agency decision applying its regulation to the land in issue.

Furthermore, the evidence must be presented by witnesses under oath and subject to cross-examination and other procedural requisites, so an administrative record that may have been compiled by the agency without these safeguards is not sufficient. *Hensler*, *Id.* p. 16.

Based upon the foregoing authority, it is beyond the purview of governmental agencies to undertake a "potential takings evaluation" or bend the rules in order to avoid a constitutional taking. Either the drafters were unaware of the law or this is a blatant attempt to circumvent it. Either way, the provision is invalid. For a discussion of takings law, and how the "potential takings evaluation" would increase the governmental entity's exposure to pay compensation in an inverse condemnation lawsuit, see **Exhibits 1 and 2.**

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² Section 30010 of the Public Resources Code expresses a legislative intent that the Coastal Act not grant the Commission or any county the "power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor...." This provision has been interpreted to simply foreclose any claim that the Coastal Act authorizes takings without compensation. *Sierra Club v. California Coastal Commission* (1993) 12 Cal.App.4th 602, 617-18.

³ It goes without saying that it would be impossible for the County to decide whether a development would result in a public nuisance, as set forth in par.5 on page 184: only a court can determine that question.

Section 22.68.070 captioned “De Minimis Waiver of Coastal Permit” [p.162 of 273] lacks statutory authority as should be deleted

While it is commendable that the Commission Staff has added procedural protections to the County’s submission regarding the *de minimis* procedure, the discussion begs the question of whether the Coastal Act authorizes the County to employ such a procedure at all. Staff Report pp. 18-19, 68. In stark contrast to the statutory provisions allowing local governments to issue emergency permits and waivers of public hearings in minor cases, Public Resources Code sec. 30624.7 contains no such authorization. Previously, the Coastal Commission staff raised the issue of legality. See, Letter to Ruby Pap dated August 31, 2011. I have addressed this issue in letters dated November 8, 2011; June 10, 2013, pp.3-4; June 21, 2013, and July 10, 2013, p.3 and May 9, 2014 p.3 which are included in the administrative record. Suffice it to say that, despite my efforts, the Staff Report does not address the issue of lack of statutory authorization pursuant to elementary rules of statutory construction. This provision allowing a *de minimis* procedure should be deleted as well as references to the *de minimis* procedure in other sections, e.g., sections 22.70.020, 22.70.030(B) and (B)(3), and 22.68.030. See, e.g., **Exhibits 3,4, and 5.**

Section 22.64.100(A)(2) captioned “Protection of Visual Resources” (p.119 of 273) is inadequate to carry out the purposes of the Land Use Plan.

Land Use Policy C-DES-2 expresses the policy of protecting visual resources. Instead of explicating what that means, Section 11.64.100 simply states that “[d]evelopment shall be sited and designed to protect visual resources per Land Use Policy C-DES-2.” We have proposed that the Implementation Code state that development shall not “impair or obstruct” significant coastal views. Such language would provide real guidance to those who must enforce LUP Policy C-DES-2, as well as those affected by the policy, as to what is required. Simply repeating that the objective is to protect visual resources does not give that guidance.

Section 22.70.030 Waiver of Public Hearings

Pursuant to section 22.70.030(B)(5) a project is considered minor if three criteria are met. (1) As proposed Is consistent with the certified LCP. (2) requires no discretionary approvals other than a CDP. And (3), as proposed has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast. The rule should require that the Director make a written determination discussing the three criteria and not simply make a conclusory statement that the three criteria have been met. This is required In order to give the public sufficient information on which to base a decision whether or not to request a public hearing. See letter to Marin County Planning Commission dated August 29, 2011, p.3. **Exhibit 6.**

Section 22.70.140. Emergency Coastal Permits

Section 22.70.140(D)(4) states that the decision to issue emergency permits is at the sole discretion of the Director. However, Public Resources Code sec. 30624 requires the following supervision of the decision:

(c) Any permit issued by a local official pursuant to the provisions of this section shall be scheduled on the agenda of the governing body of the local agency at its first scheduled meeting after that permit has been issued. If, at that meeting, one-third of the “(members of that governing body so request, the permit issued by the local official shall not go into effect and the application for a coastal development permit shall be processed by the local government pursuant to Section 30600.5.”

Inexplicably, this oversight provision, required by the statute, has not been included.

Respectfully submitted,

Richard S. Kohn

Attachments (6)

TO: State of California – Natural Resources Agency, California Coastal Commission

FROM: Stacy Carlsen, Marin County Agricultural Commissioner

DATE: April 13, 2015

RE: County of Marin LCP Amendment No. LCP-2-Mar-13-0224-1
(Hearing 4-16-15 comments)

Dear Commissioners:

Marin County is noted for sustainable agricultural practices and recognized as leader in organic farming regionally, statewide, and nationally. Greater than 40,000 acres are certified organic by Marin Organic Certified Agriculture (MOCA) under the USDA National Organic Program (NOP). Greater than 1/3 of our farmland is certified organic. All fruit, nut, and vegetable producers in the County are certified Organic by my department. In addition, our Dairies are committed to organic production with three quarters of our milk produced under organic standards. Dairy farms remain our premiere agricultural commodity accounting for greater than \$50 million in gross production value. These local farms are supported by Marin County Board of Supervisors and recognized by the University of California as a model system of farm sustainability integrating economic, environmental, and social equity factors in production, marketing, and food distribution.

Issue #1 - Agricultural Production Activities, Ongoing (Coastal)

I do not support the proposed California Coastal Commission 10 year window of farm practices that define agriculture practices or patterns. No prescriptions of past activities are relevant or permitting changing practices necessary. It is essential all possible agricultural products be allowed to be produced on farms. There should be no restrictions addressing time periods or crop types leading a farmer to forgo a farming opportunity based on past activities thus missing an opportunity to remain economically viable. The definition of agriculture as found in the Local Coastal Plan and Marin County General Plan does not prescribe to time as distinguished from space that a crop is excluded from the definition. Either you have a definition of agriculture or you don't!

It is not possible to lock Marin agriculture into a time capsule! This feels like the first of many steps to push Coastal Zoned properties into a bucolic – look but don't touch landscape. It is unfair and creates an uncompetitive market place for those not able to apply the full breadth of the definition of "agriculture". In this scenario -- a farm across the street, outside the Local Coastal Plan Zone could perform all farming practices/opportunities to compete in growing or changing markets – while in the Coastal

Zone the farmer would likely not pursue producing a tilled crop (herbs, leafy greens, annual crops, etc.) most likely due to over-the-top permitting bureaucracy, lack of response to process a permit, cost of a permit, and likely challenges from concerned groups or individuals for growing a regionally acceptable crop. Planning an annual crop requires a short time frame for a seasonal product and any delays would disrupt meeting local demand. To plant a small vineyard on LCP zoned parcel would likely result in a legal challenges and appeals of any permit process. These costs would be in addition to vineyard planning and installation cost and excessive delays. Currently a vineyard planting is regulated in Marin County under the Vineyard Erosion and Sediment Control Ordinance (VESCO). It would be redundant to further regulate this agricultural activity and create an economic disadvantage to this farm property. To frame the issue there is now a little over 200 acres of vineyards in Marin County in relation to greater than 150,000 acres of agriculturally zoned land. Even in the regional perspective vineyards in Marin are small and hobby size limited due to topography and water availability. However, the values of grapes produced are competitive with regional grapes prices thus adding economic value to our producers. With regional expansion of grape acreage (Napa/Sonoma/Mendocino, Solano), Marin County has made miniscule advances in acreage plant over the past twenty (20) years. Not exactly a change of use threat in the agricultural region.

A no grading/ no intensity in use or changes of practices during a ten year period are unrealistic and arbitrary. There is no precedent for such policy or place in agriculture. Tilling the soil is not novel but essential to farming. Just in the past ten (10) years many small farms have emerged -- many operated by young and start up farmers filling the demand for locally grown produce. They are working on small parcels of land not "intensively farmed or graded" but meeting the highest USDA/ Resources Conservation District standards for erosion control.

Fallout from the "can" farm and "cannot" farm groups will affect next generation farmers. Younger members of a multigenerational farm family willing to take risks, apply their agricultural/business education, utilize the latest responsible technology and farm equipment are hence excluded from competing in an ever growing/changing market place. The "cannot" farm also suffers a serious economic disadvantage over the "can" farm as various markets improve the gross economic return improving total sales for the unregulated farm. The "can" farm moves into changing markets, discovers new opportunities, and celebrates success. This form of farming exclusion and permitting proposed by Commission staff will become the new time capsule for farming and is the death blow to small family farms. Options should be available to maintain economic viability and provide a diverse assortment of sustainability produced foods. This is our current model in Marin County. Our local farms represent the highest quality products grown and shipped to our local and regional food shed. All produce grown are delivered to local Direct Farmers Markets, restaurants, and retail grocery stores. Milk is processed under strict organic standards and distributed to regional markets. Organic farms and dairies have Farm System Plans meeting the highest sustainability standards including sensitive species protection, erosion control, habitat enhancements, and grazing prescriptions.

We are at a place and time when we can make a difference in our local food system, be creative, supply wholesome local products and be economically viable. I have been working for over twenty years in Marin County to see a local sustainable farm system come to fruition and flourish. As the Bay Area public leans on our food shed for locally sourced organically produced products we need to be poised to grow those products to meet the demand. The demand for locally grown food is the statement. The Marin County model avoids the long transport and product commingling associated with conventionally produced fruit and vegetables in California. The key point is the necessity to recognize and understand the unique model of production and marketing of food in Marin County. The public wants progressive and responsibly farmed food they can attach a "name to" and know it was produced in our local food shed. Restricting farming options is in direct contradiction to the work by our community. If that is the case we should close up the shop and import all of our food from foreign countries and leave our destiny in the hands of less concern people to produce our food.

Issue #2 - Agricultural Processing and Retail Sales

I suggest we not limit retail sale of only Marin and Sonoma Counties but to embrace the growing and sharing of local products in our food shed. Buy Local / Local Grown / Food Hubs / Food Sheds and other related terms assist in describing the ever changing demand for fresh locally sourced food covering the demand for the broadest arrays of food types. The concept is to meet demand for diverse food palates and produce and ship them locally/regionally. Growers share production plans and remain ready to fill orders for the ever-changing appetite of a regionally demanding clientele. Local products meet the demand before others outside the region fill the void in order to give our food shed the economic advantage. These actions also reduce our overall carbon footprint. Dairies like producers of fruits and vegetables can diversify or generate valued added products and bolster sales and profits. Growing your own herbs for example can become value added products in a cheese recipe.

Producing or reselling herbs, fruits, flowers, and nuts within a food shed (Marin, Sonoma, Napa, Solano, etc.) which may be used to enhance retail sales is standard practice at farm stands. California Department of Food and Agriculture currently issues permits authorizing resale of agricultural products at retail farm stand markets. Selling locally sourced agricultural products from the region at a Marin Farm stand is not conflicting as growers in other counties sell Marin products at their farm stands.

Sincerely,
Signature on file

Stacy Carlsen
Agricultural Commissioner
Director of Weights and Measures