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To: Commissioners and Interested Persons

From: Jeannine Manna, District Manager
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Subject: Marin County Local Coastal Program Amendment Number LCP-2-MAR-19-0003-1 (Marin Implementation Plan Partial Update)

SUMMARY OF STAFF RECOMMENDATION

Marin County has been in the process of comprehensively updating its Local Coastal Program (LCP), including all aspects of the LCP's Land Use Plan (LUP) and Implementation Program (IP), for the past 10 years. The current LCP was originally certified, with the County assuming coastal development permitting (CDP) authority, in May of 1982. In 2008, the County embarked on this current LCP update effort, and following nearly five years of local 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 certified the LUP portion of the update following a public hearing in Inverness, and in April of 2015 considered the IP portion of the update at a public hearing in San Rafael. At that 2015 hearing, the County withdrew its proposed IP update before Commission action, intending to allow time for the County to pursue changes to the IP to resolve then County-identified IP issues.

Ultimately, in 2015 and 2016, the County chose to submit a revised LCP update (i.e., both a revised LUP Update, different from that conditionally certified by the Commission in 2014, and a revised IP Update, different from that previously proposed and withdrawn in 2015) made up of 7 separate County-identified amendments. At the November 2, 2016 Coastal Commission meeting in Half Moon Bay, the Commission denied, and then partially approved if modified by the County pursuant to the Commission's suggested modifications, the County's revised proposed LCP Update. All amendments in the LCP Update package were acted upon by the Commission at that time except for the two amendments related to environmental hazards, which the Commission voted to continue to a future date.¹

¹ These environmental hazards amendments were later withdrawn by the County.

By action taken on April 24, 2018, Marin County adopted the amending LCP text for County-identified amendments 1, 2, and 6 as modified by the Commission, but rejected Coastal Commission modifications associated with County-identified amendments 3 and 7.² On June 6, 2018, the Commission determined that the action taken by the County on the adopted subset of County-identified amendments was legally adequate and confirmed that the LCP text within these amendments should be deemed certified.³ The 2016 pending certified amendments consist of the entire LUP except for the environmental hazards chapter, and the IP administrative permitting procedures. Based on the way the LCP Update was approved and submitted by the County, such newly certified parts of the LCP do not become effective for land use planning and coastal permitting purposes unless and until the remaining chapters and sections of the LCP are also certified (i.e., County-identified amendments 3, 4, 5, and 7). Until then, the existing Marin County LCP continues to serve as the standard of review for development in the Marin County coastal zone, and the currently certified components of the Update should be understood as *pending* certified components.

Commission staff worked closely with County staff and local stakeholders throughout 2018 to identify potential changes in amendments 3 and 7 to address remaining County and stakeholder concerns consistent with Coastal Act requirements. This new proposed amendment submittal currently before the Commission thus represents the latest version of County-identified amendments 3 and 7, which comprise the entire IP update minus the environmental hazards section (still to be completed) and the coastal permitting procedures section (already certified and pending). In addition, the County's proposed amendment includes one proposed LUP policy change and one parcel-specific LUP and IP change. The majority of the Commission's suggested modifications to County-identified amendments 3 and 7 in its 2016 action were incorporated by the County into these now newly submitted amendments, and the County also proposes newly identified specific changes related to agriculture, public services, visitor-serving facilities, and definitions (See **Exhibit 4**).

Specifically, the County here is only proposing about 11 changes from what the Commission has already certified. The proposed amendment modifies the definition of "ongoing agriculture" to provide better clarity on the types of agricultural production activities that would be exempt from CDP requirements, refines standards that apply to principally permitted educational tours and other agricultural uses, and limits the application of more rigorous reporting requirements for public and private wells to those that would significantly increase water usage. The amendment also establishes a commercial core overlay zone within the Coastal Visitor Commercial Residential zoning district and identifies the principally permitted uses and related requirements that apply within and outside the designated commercial core area. In addition, the amendment updates land use tables and footnotes, and removes a few definitions integrally related to environmental hazards to be addressed at a later date. Lastly, the amendment provides for a parcel specific land use and zoning change consistent with a recent County action. While these changes described are technically the only parts of the LCP Update that have not yet been

² By rejecting the Commission's suggested modifications for County-identified amendments 3 and 7, only the Commission's denial of those amendments stand, and thus *all* of County-identified amendments 3 and 7 (i.e., and not just any potentially contested portions of the Commission's modifications) need to be submitted anew for Coastal Commission consideration.

³ See Appendix A for the Commission-certified LUP and IP administrative procedures chapters.

reviewed and approved by the Commission, since the County submitted these changes as part of a larger amendment package, including all of County-identified Amendments 3 and 7, all such language is currently before the Commission for review. Thus, although the Commission can address other issues within the submittal, and retains complete authority to do so, there are really only 11 proposed changes from what the Commission has already certified.

Staff would note that this current staff recommendation – as was also applicable to previous staff recommendations – benefitted greatly from public comment received from interested stakeholders and community groups on issues raised by the County’s submittal and the Commission’s previous actions. In addition, staff worked extensively and inclusively with County staff prior to their local hearings, as it has throughout this update process. Staff also worked closely with members of the public, including meeting with stakeholder groups and individuals to understand their particular concerns. The result of this outreach culminated in the County’s current LCP amendment submittal and the current staff recommendation (of approval as submitted), and attempts to address issues raised since the Commission’s last action in 2016 in a manner that is consistent with the Commission’s prior actions on the LCP Update and the Coastal Act.

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 128 square miles (82,168 acres) of the County’s 520 square miles of total land area. Of this coastal zone 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. The remaining 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; amazing coastal vistas, particularly along the immediate shoreline; and many areas subject to coastal hazards, including development fronted by armoring, low-lying areas subject to flooding, and bluffs susceptible to erosion, all exacerbated by the effects of sea level rise.

Agriculture

Nearly two-thirds of the Marin County coastal zone is zoned Coastal Agricultural Production Zone (C-APZ), the LCP’s primary agricultural zoning designation. This single zoning district contains the vast majority of Marin’s existing agricultural lands, much of which is used primarily for livestock grazing because Marin’s coastal zone contains little prime agricultural land suitable for row crop farming, and has limitations on water supply availability. Thus, the LCP’s policies addressing agricultural protection, including allowable land uses on C-APZ zoned land and the applicable resource protection standards that development must meet, are of paramount concern and importance in ensuring development within Marin’s coastal zone is consistent with the Coastal Act.

The 2016 Commission-certified (and now pending) 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, in past actions on this LCP, has 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. A farm can 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 a farmhouse as well as up to two intergenerational housing units in order to allow for others to live on that farm, including family members. Thus, the 2016 certified pending 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 homes) on that farm. The proposed IP amendment implements the aforementioned LUP agricultural protection policies, including standards for specific development (e.g., farmhouses, intergenerational homes, and agricultural worker housing), and describes the standards applicable to those listed development types, limitations on use (including that intergenerational homes shall not be subdivided from the rest of the agricultural legal lot), clustering, and permitting requirements.

In terms of changes to the Commission's suggested modifications for the 2016 IP, an area of significant discussion has been related to agricultural activities, including what activities are considered ongoing, what activities are considered new, and what activities require CDPs. The current proposed amendment describes these activities as ongoing agricultural production activities (such as crop rotation, plowing, tilling, planting, harvesting, seeding, grazing, raising of animals, etc.) when these production activities have not been expanded onto land never before used for agricultural, and indicates that no CDP is required for these ongoing activities. Other activities, such as preparation of or actual planting of land for viticulture, would require CDP review. As such, the vast majority of existing agricultural activities that are occurring in the County's coastal zone will fall into the category of ongoing agricultural activities that do not require any coastal permitting. For those activities that would not fall into that category, the certified pending IP administrative procedures already include a series of tools to ensure that CDP requirements are not overly burdensome, including a waiver process and a minor development approval process that will significantly streamline coastal permitting in the County. Further, many agricultural activities would already be excluded from CDP requirements by the County's Categorical Exclusion (previously adopted for the County by the Commission).

In short, the proposed amendment appropriately implements the 2016 certified pending LUP agricultural provisions, clarifies and refines certain concepts related to ongoing agricultural production activities, and is designed with the unique attributes of agriculture in Marin in mind. The County and the County's LCP have long protected this important resource, and every indication is that the County and its agricultural community will continue this long history of stewardship moving forward. The proposed updated IP should serve to support and encourage this critical way of life in Marin for now and into the future.

Biological Resources

The Marin County coastal zone contains a wide variety of habitat types and geologic features,

including a range of estuarine and marine environments, tidal marshes, freshwater wetlands, streams, upland forests, chaparral, grasslands, dunes, and beaches. Because so much of the coastal zone is rural, the protection of these habitats, including through policies that specify allowable uses within them and clearly defined development standards, is critical.

The 2016 Commission-certified pending 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). The certified pending LUP also 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.

The proposed IP is predominantly the same as the version approved by the Commission with suggested modifications in 2016, and it appropriately implements the certified pending LUP's required biological resource protection standards and offers additional details on the CDP submittal requirements necessary to ensure such sensitive habitat protection. For example, the proposed IP 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, the proposed IP provides more detail on the required CDP submittal materials and 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. Thus, the proposed IP includes a clear set of policies and standards that defines ESHA, specifies the allowable uses within it, required buffers, and the habitat mitigation requirements ensuring protection of Marin's vast biological resources and natural habitats, and appropriately implements the 2016 certified pending LUP biological resource provisions.

Water Supply

Most development in the Marin County coastal zone addresses water and wastewater requirements through individual property-specific systems managed by private landowners because community water supply and sewage disposal systems are limited and exist only in some of the villages. The 2016 Commission-certified pending LUP requires 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, etc.). Additionally, public service expansions are to be limited to the minimum necessary to adequately serve development otherwise allowed for in the LCP, and to not induce additional growth that either is not allowed or that cannot be handled by other public services. The proposed IP implements the aforementioned LUP policies by providing public facility and service standards that define 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.

With respect to applications involving new or increased well production, such applications must demonstrate the adequacy of water and ensure that such water usage will not impact nearby coastal resources or adjacent wells. For both public and private wells this includes submission of a report demonstrating that the well yield meets the LCP-required minimum pumping rate of 1.5 gallons per minute and that the water quality meets safe drinking water standards. In terms of changes to the Commission's suggested modifications for the 2016 IP, an area of significant discussion has been related to the necessity of an additional standard for such wells including that they demonstrate that the extraction will not adversely impact other wells located within 300 feet of the proposed well; adversely impact adjacent or hydrogeologically-connected biological resources including streams, riparian habitats, and wetlands on the subject lot or neighboring lots; and will not result in insufficient water supply available for existing and continued agricultural production or for other priority land uses on the same parcel or served by the same water source. The County had previously expressed concerns that this requirement would create a requirement that would subject even small projects to expensive studies out of scale with potential impacts. As such, the County and Commission staff worked together to develop thresholds for the size and intensity of projects that would be subject to this specific requirement. The proposed IP now specifies that this requirement would apply to very large new or expanded wells, including public water supply projects, public or private projects proposing the subdivision or rezoning of land that would increase the intensity of use, or public or private projects on developed lots that would increase the amount of water use by more than 50%. Staff believes that this appropriately protects coastal resources, and is adequate to address new and expanded well development. Thus, the proposed IP would appropriately implement Commission-certified LUP water supply provisions, including those requiring the provision of adequate public services for public and private development.

Other

In addition to the agriculture, biological resources, and water supply provisions summarized above, the proposed IP also implements important Coastal Act and Commission-certified LUP considerations related to visual resource protection, public recreation, public access, and other coastal resource concerns. In general, most of the newer changes proposed by the County as compared to the 2016 conditionally certified language with suggested modifications, clarify terms and requirements, and refine concepts. Particular definitions related to environmental hazard have been removed from the IP so that they can be addressed alongside the hazard amendments when they come before the Commission at a later date.

In conclusion, Marin County's proposed amendment would complete the IP portion of the LCP update (except for the environmental hazards section that will be considered separately in the future). 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 updated LCP was submitted to the Commission for consideration to ensure that the latest submittal addresses comments and concerns consistent with Coastal Act requirements and conforms with and is adequate to carry out the certified pending LUP.

Staff recommends that the Commission **approve** the proposed LCP Update amendment as submitted. The required motions and resolutions are found on page 9.

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EXHIBITS

- Exhibit 1: Proposed LCP Amendment- Implementation Program Update
- Exhibit 2: Proposed LCP Amendment- Land Use Plan Policy Change and C-VCR Commercial Core Area Maps
- Exhibit 3: Proposed LCP Amendment- Parcel Specific Land Use and Zoning Change
- Exhibit 4: Marin County Memo & Letter Highlighting Proposed Amendment Changes
- Exhibit 5: Summary of Marin County Zoning Districts

APPENDICES

- Appendix A – Substantive File Documents
- Appendix B – Staff Contact with Agencies and Groups

I. MOTION AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment as submitted. The Commission needs to make two motions, one on the proposed LUP amendment and a second on the proposed IP amendments, in order to act on this recommendation.

A. Certify the LUP Amendment As Submitted

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in the certification of the LUP portion of the amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only upon an affirmative vote of the majority of the appointed Commissioners.

***Motion:** I move that the Commission **certify** Land Use Plan Amendment Number LCP-2-MAR-19-0003-1 as submitted by Marin County, and I recommend a yes vote.*

***Resolution:** The Commission hereby certifies Land Use Plan Amendment Number LCP-2-MAR-19-0003-1 as submitted by Marin County and adopts the findings set forth below on the grounds that the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment 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 or mitigation measures that would substantially lessen any significant adverse impacts which the amendment may have on the environment.*

B. Certify the IP Amendment As Submitted

Staff recommends a **NO** vote on the motion below. Failure of the motion will result in certification of the IP portion of the amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission **reject** Implementation Plan Amendment Number LCP-2-MAR-19-0003-1 as submitted by Marin County, and I recommend a no vote.*

***Resolution:** The Commission hereby certifies Implementation Plan Amendment Number LCP-2-MAR-19-0003-1 as submitted by Marin County and adopts the findings set forth below on the grounds that the amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment 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 or mitigation measures that would substantially lessen any significant adverse impacts which the amendment may have on the environment.*

II. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

1. LCP Update Background

Marin County has been in the process of comprehensively updating its Local Coastal Program (LCP), including all aspects of the LCP's Land Use Plan (LUP) and Implementation Plan (IP), for many years. The existing LCP was originally certified, with the County assuming coastal development permit (CDP) authority, in May of 1982. In 2008, the County embarked on this current LCP update effort, and following nearly five years of local 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 2013. In May of 2014, the Commission conditionally certified the LUP portion of the update following a public hearing in Inverness. The 2014 Commission conditionally-certified LUP suggested modifications to the proposed update to provisions related to the protection of agriculture, ESHA, and wetland areas, public recreational access, and visual resources; adequacy of public services (including transportation, water, and wastewater capacities, particularly for Coastal Act priority land uses); and coastal hazards protection policies, including for both new development by requiring hazards issues to be studied and addressed in the siting and design of new development and for existing development (e.g., defining what types of improvements to existing structures constitute new development and therefore require adherence to all applicable LCP hazard policies). These modifications ranged from targeted revisions needed to ensure that the objectives of the Coastal Act were clearly articulated (e.g., the modifications to shoreline hazards protection as stated above), to minor changes, such as clarifying that certain development standards (for example, height and density) are maximums and not entitlements.

Subsequent to that action, in April of 2015, the Commission conducted a public hearing to consider the County's updated IP. Commission staff recommended approval of the updated IP, subject to suggested modifications needed for the IP to conform with and adequately carry out the Commission's 2014 conditionally-certified LUP. However, citing the need for additional time to consider the proposed IP modifications, the County withdrew the submitted IP prior to the Commission taking a vote on the submittal. Ultimately, the County chose to resubmit a modified LCP update proposal in its entirety (i.e., both a revised LUP, different from that conditionally certified by the Commission in 2014, and a revised IP, different from that previously proposed) for Commission consideration. On August 25, 2015 and April 19, 2016, the Marin County Board of Supervisors held two additional public hearings, concluding with approval of the modified LCP Update (both the revised LUP and IP policies) in 2016 and subsequent resubmittal to the Commission for consideration on October 8, 2015, and on April 22 and 25, 2016.

In its 2015/2016 LCP Update resubmittal, the County incorporated the vast majority of the 2014 Commission conditionally-certified LUP suggested modifications and the suggested modifications proposed by Commission staff to the IP in 2015, made minor changes to some suggested modifications, and also replaced certain suggested modifications with alternative language that achieved the same goals and objectives that were intended by the Commission and Commission-staff's suggested modifications. However, in that 2015/2016 submittal, other

standards were proposed again, deleted, or significantly modified.

The 2015/2016 LCP Update resubmittal was provided to the Commission as 7 separately numbered components, identified by the County as follows:

Amendment 1: All LUP chapters except for the Agriculture and Environmental Hazards Chapters

Amendment 2: The LUP's Agriculture Chapter

Amendment 3: The IP's Agriculture sections

Amendment 4: The LUP's Environmental Hazards Chapter

Amendment 5: The IP's Environmental Hazards sections

Amendment 6: The IP's Coastal Permitting and Administration sections

Amendment 7: All remaining LUP and IP components not part of Amendments 1 – 6 above

All of the amendments together submitted by Marin County (i.e., County-identified amendments 1 through 7) were considered by the Commission through prior LCP amendment LCP-2-MAR-15-0029-1, and this amendment constituted a request by the County to comprehensively update the LCP's LUP and IP in their entireties, and thus a full LCP update. On November 2, 2016 the Coastal Commission approved, in part, the County's resubmitted LCP Update. Specifically, the Commission approved the proposed amendments to the LUP (County-identified amendments 1 and 2) and the IP (County-identified amendments 3, 6, and 7) with suggested modifications, and delayed taking action on the amendments related to environmental hazards at the County's request (County-identified amendments 4 and 5); ultimately, the County subsequently withdrew amendments 4 and 5 from Commission consideration. The Commission ultimately adopted revised findings for its November 2, 2016 action on July 14, 2017.

By action taken on April 24, 2018, Marin County adopted LCP changes associated with County-identified amendments 1, 2, and 6 as modified by the Commission, but rejected Commission modifications associated with County-identified amendments 3 and 7.⁴ On June 6, 2018, the Commission determined that the action taken by the County on the adopted subset of County-identified amendments was legally adequate and confirmed that the LCP text within these amendments should be deemed certified. However, based on the way the LCP Update was approved and submitted by the County, such newly certified parts of the LCP would not become effective for land use planning and coastal permitting purposes unless and until the remaining LCP components were also certified (i.e., County-identified amendments 3, 4, 5, and 7). Until then, the existing Marin County LCP continues to serve as the standard of review for development in the Marin County coastal zone. So at this time, County-identified amendments 1, 2, and 6 are certified, pending completion of the LCP Update process, County-identified

⁴ By rejecting the Commission's suggested modifications for County-identified amendments 3 and 7, only the Commission's denial of those amendments stand, and thus *all* of County-identified amendments 3 and 7 (i.e., and not just any potentially contested portions of the Commission's modifications) need to be submitted anew for Coastal Commission consideration.

amendments 4 and 5 (environmental hazards) are to be considered in the future, and County-identified amendments 3 and 7 (and one proposed LUP policy change and one parcel-specific LUP and IP change) are now before the Commission for consideration (see **Exhibits 1, 2 and 3** for the currently proposed LCP amendment components).

2. Proposed LCP Amendment

Commission staff worked closely with County staff and local stakeholders throughout 2018 to identify potential changes in County-identified amendments 3 and 7 to address remaining County and stakeholder concerns consistent with Coastal Act requirements. This proposed amendment submittal currently before the Commission represents the latest version of County-identified amendments 3 and 7. They comprise the entire IP update minus the environmental hazards and coastal permitting procedures sections. In addition, the County's proposed amendment includes one land use plan policy change and parcel specific land use change (originally part of amendment 1) and a corresponding zoning change for the same subject parcel as part of this latest submittal. The majority of the suggested modifications made to amendments 3 and 7 through the Commission 2016 conditional certification were incorporated by the County into these amendments in their entirety, except for specific changes related to agriculture, public services, visitor-serving facilities, and definitions as further identified and described in the findings below (see **Exhibit 1**).

The proposed LUP amendment would modify one LUP policy (C-PK-3) from the 2016 certified pending LUP to better clarify the requirements and terms of appealability for land uses in the coastal visitor-serving commercial zoning district. In addition, as further described below, the proposed amendment includes a change to the LUP Land Use Map originally certified by the Commission in 2016 for one parcel located at 1055 Vision Road in the unincorporated Inverness Ridge area of Marin County.

The proposed IP amendment includes zoning district maps and the following seven 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 22.130 (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 uses (Chapter 22.32). Chapters 22.68 and 22.70 specify the different types of CDPs, and the hearing and noticing specifications required for the particular CDP type, and are not included in the current proposal given they were already certified.⁵

Each of the proposed IP chapters would be part of the LCP. The LCP will continue to be a standalone document separate from the overall Marin County Municipal Code, which describes and implements the land use planning and development standards throughout the entire County, including areas that are not in the Coastal Zone. Additional permit requirements may be assigned independent of and in conjunction with the Coastal Permit requirements, however, the LCP would provide the standards that apply to any development located within the coastal zone.⁶

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

Chapter 22.32 (Standards for Specific Land Uses)

Chapter 22.32 describes the development standards applicable to 32 individual land uses. This chapter represents an entirely new chapter when compared to the existing certified IP, which lists general development standards applicable to all uses throughout the coastal zone, but does not include additional use-specific provisions. The 32 listed uses in proposed Chapter 22.32 are either commonly proposed and/or offer their own particular set of impacts/issues, including agricultural dwelling units and residential second units.

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 already applicable LUP policies specific to those uses.

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, etc.) 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 public

⁵ Chapters 22.68 and 22.70 are not included in this new proposed amendment as they are already certified and pending as part of the 2016 Commission action and 2018 County acceptance.

⁶ Originally, the County planned to integrate the LCP IP Chapters into the overall Marin County Municipal Code and the existing numbering reflects such integration. However, the County has indicated that these chapters will function as a standalone document and the numbering will be amended to reflect the separate status of the LCP after full adoption. The original section numbering has been retained in this amendment submittal to facilitate the ability of interested parties to track changes throughout the LCP process.

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. Chapter 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 conflict between those standards and the ones specifically required by 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 four permit categories: principally permitted (noted with "PP"), permitted ("P"), conditional ("U"), and use not allowed ("_").

Chapter 22.62.040 describes the four permit categories: 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 **Exhibit 5**.

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.
- 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.

In addition, the IP proposes 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).

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 (defined as an agricultural land use in which a type of agricultural dwelling unit may only be occupied by occupants authorized by the farm owner or operator actively and directly engaged in agricultural use of the property), group homes (defined as a dwelling unit licensed or supervised by a federal, state or local health/welfare agency providing 24-hour non-medical care for persons who are not disabled, and includes children's homes, rehabilitation centers, self-help group homes and may include medical care for alcoholism or drug abuse treatment services), and educational tours (defined as interactive excursions for groups to experience the unique aspects of a property, including agricultural operations and environmental resources). 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 range of commercial and related land uses are proposed as allowable, including to facilitate affordable housing. Other zoning district changes include adding public buildings and equestrian facilities as allowable uses within the Coastal Single Family Planned district (C-RSP), 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 primary 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 and/or area. Sections 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 generally identical to those specified in the existing certified IP, and generally reflect standard planning practice (e.g., 7,500 square feet 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 referencing other chapters of the County's 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; water resources; community design; community development; energy; housing; public facilities and services; transportation; historical and archeological resources; parks, recreation and visitor-serving uses; and public coastal access. In general, these proposed IP sections implement the corresponding certified pending LUP policies via cross-reference, which is a similar construct as the currently 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 relevant ESHA, the applicable buffers required to protect the resource, and the allowable uses within both the ESHA itself and its buffer.

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. 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 22.130 (Definitions)

Finally, Chapter 22.130 provides a detailed glossary of terms and phrases used in the LCP. The zoning maps (LCP Map Set 29) are also included in the proposed IP amendment.

The proposed IP update would wholly replace the existing IP (in conjunction with the already certified-by-the-Commission, pending IP permitting procedures and to-be completed and submitted environmental hazards sections) in its entirety with new provisions designed to implement corresponding policies of the 2016 certified pending LUP and the currently proposed LUP changes.

Land Use Change and Parcel Rezone

The proposed amendment also includes a land use and zoning change to the LUP Land Use Map and IP Zoning Maps for one parcel located at 1055 Vision Road in the unincorporated Inverness Ridge area of Marin County. This change is proposed to ensure consistency with a recent County land use and zoning designation change action. Specifically, discrepancies between LCP land use and zoning designations on the subject property came to light when the current owner applied for

a CDP from the County to demolish some residential structures and to restore and rebuild other residential structures on the applicant's split-zoned, roughly 6-acre property. Specifically, it was determined that about half of the property (APN 109-330-05) lacked a land use designation and that the zoning designation covering that half of the site didn't exist in the existing certified IP. At that time, it was also discovered that this half of the property had been incorrectly assigned an open space land use and zoning designation on the LCP Update maps. Thus, the County amended the existing LUP land use maps to designate the entire property as residential, and rezoned it from Coastal Limited Agriculture to Coastal Residential Single-Family Planned District. This amendment was approved as submitted by the Commission on July 12, 2018 (LCP-2-MAR-18-0027-1) (**Exhibit 3**). While this action successfully amended the exiting LCP, the 2016 certified pending LUP maps still reflected an open space designation on this parcel. As such, to ensure that the final LUP and IP maps reflect a residential zoning designation consistent with the most recent County action when they eventually go into effect, the proposed LUP amendment would modify the 2016 certified pending land use designation for this parcel from open space to residential, and the new proposed IP zoning maps would again designate the property as Residential Single-Family Planned District.

See **Exhibits 1, 2, and 3** for the County proposed LUP and IP amendments.

B. CONSISTENCY ANALYSIS

Standard of Review

The proposed amendment affects both the LUP and IP components of the Marin County LCP. The standard of review for LUP amendments is that they meet the requirements of, and are in conformity with, the policies of the Chapter 3 policies of the Coastal Act. The standard of review for the IP amendments is that they must conform to with and be adequate to carry out the policies of the 2016 certified LUP (and any changes to it approved by the Commission here), which becomes effective for permitting on completion of all seven amendments.

Prior Commission Actions

In May 2014, the County's then proposed LUP was heard and conditionally approved with suggested modifications by the Commission with a set of findings supporting those changes (see [2014 LUP Staff Report](#)). Subsequent to that action, in April 2015, the County's then proposed IP was heard by the Commission. At that time, Commission staff had suggested a series of modifications to the proposed IP, and a set of findings supporting those changes (see [2015 IP Staff Report](#)). In November 2016, the County's resubmitted LCP was heard and conditionally approved with suggested modifications by the Commission with a set of findings supporting those changes (see [2016 LCP Staff Report](#)). Except as revised herein, the Commission adopted 2014 LUP findings, the Commission staff recommended 2015 IP findings, and the Commission adopted 2016 IP and LUP findings are incorporated by reference as part of these findings, including as the County's proposed LCP is based on these versions with minor changes. Thus, the findings in this section build upon the referenced and incorporated 2014, 2015 and 2016 findings, as modified in this report, while also describing the proposed submittal and analyzing changes now proposed and other comments received.⁷

⁷ The County accepted the majority of Commission staff's 2014 and 2015 recommended modifications in their 2016 LCP resubmittal. The County also accepted the majority of the Commission's 2016 conditionally certified

1. Agriculture

a) 2016 Certified Pending Land Use Plan

Agriculture is one of the primary uses of land within the Marin County 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 in Marin County (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 2016 Commission certified (and pending) 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, in past actions on this LCP, has 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 previous modifications made by the Commission, including in terms of defining the types of development that would be designated as a principally permitted agricultural use and the required development standards. To ensure that the principal use of lands designated for agricultural uses and zoned C-APZ remain agriculture, and that development is designed and constructed to preserve agricultural lands and agricultural productivity, specific principally permitted uses and conditional uses were defined in LCP Policy C-AG-2 and development standards for such uses were established in C-AG-7.

The 2016 certified pending LUP also allows one farmhouse or a combination of one farmhouse and up to two intergenerational homes per farmer, regardless of how many parcels the farmer owned. Again, the concept is centered around the family farming operation, in that a farmer is allowed one farmhouse on the 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 was 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 2016 certified pending 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 homes) on that farm. However, no more than 27 intergenerational homes would be allowed in the agricultural production zone unless and until another LCP amendment was approved.⁸

modifications as part of this proposed amendment, and made specific changes in cross-through and underline to that version showing what they now propose (see Exhibit 2).

⁸ The 27 home cap on intergenerational homes was the result of a buildout analysis conducted by the County as part of its original LCP Update submittal 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

This fundamental concept of allowing one farmhouse, or a combination of one farmhouse and up to two intergenerational homes, per “farm”, as opposed to per legal lot, is carried over in LCP Policies C-AG-2, C-AG-5, and C-AG-9 through use of the term “farm tract,” defined as all contiguous legal lots under a common ownership within a C-APZ zoning district. The 2016 certified pending LUP also bundles the C-APZ principal permitted uses of farmhouses, intergenerational homes, and agricultural worker housing into “agricultural dwelling units” and provides for particular development standards for such units including requiring that farmhouses and intergenerational homes be owned by a farmer or operator actively and directly engaged in agricultural use of the property, limiting the combined total square footage of such homes to 7,000 square feet, and establishing minimum density requirements for each unit.

The 2016 certified pending LUP also distinguishes permitting requirements for educational tours based on for-profit revenue generation. Specifically, all not for profit educational tours would be principally permitted even if operated by a third party. With regard to permitting requirements, the 2016 certified pending LUP includes Program C-AG-2(a) which seeks to clarify for the agricultural community those agricultural uses for which no permit is required, such as in the case of categorical exclusions for particular categories of development and exclusions for particular geographic areas. Further, Program C-AG-2(b) is included which acknowledges that the County plans to evaluate the efficacy of permitting limited non-agricultural residential development within the C-APZ zone as a means of securing permanent affirmative agricultural easements. Finally, the 2016 certified pending LUP includes a definition of the term “non-prime land” in C-AG-7 and clarifies the clustering requirements for agricultural dwelling units, agricultural accessory structures, and agricultural processing facilities in C-AG-7(A)(4), including when clustering exceptions can be made.

b) Applicable Land Use Plan Policies

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 and compatible with agricultural production.

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, and the County proposed the 27-unit cap on intergenerational homes as part of its original submittal, and it was certified by the Commission, both originally in 2014 and then subsequently in 2016.

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

1. *Agricultural Production:*
 - a. *Uses of land for the breeding, raising, pasturing, and grazing of livestock;*
 - b. *The production of food and fiber;*
 - c. *The breeding and raising of bees, fish, poultry, and other fowl;*
 - d. *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. *Agricultural Dwelling Units, consisting of:*
 - a. *One farmhouse or a combination of one farmhouse and one intergenerational home per farm tract, defined in this LCP as all contiguous legal lots under a common ownership within a C-APZ zoning district, consistent with C-AG-5, including combined total size limits;*
 - b. *Agricultural worker housing, providing accommodations consisting of no more than 36 beds in group living quarters per legal lot or 12 units or spaces per legal lot for agricultural workers and their households;*
5. *Other Agricultural Uses, appurtenant and necessary to the operation of agriculture, limited to:*
 - a. *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;*
 - b. *Not for profit educational tours.*

B. *Conditional uses in the C-APZ zone include a second intergenerational home per farm tract, for-profit tours, agricultural homestay facilities, agricultural worker housing above 36 beds in group living quarters per legal lot or 12 units or spaces per legal lot for agricultural works and their households, 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) shall include all contiguous properties under the same ownership when reviewing a Coastal Permit application that includes agricultural dwelling units.

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.

A. 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. 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 (plus 540 square feet of garage space and 500 square feet of office space in the farmhouse used in connection with the agricultural operation) may be permitted as an agricultural dwelling per farm tract, defined in this LCP as all contiguous legal lots under common ownership within a C-APZ zoning district, whether in a single farmhouse or in a combination of a farmhouse and intergenerational homes(s). 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 C-AG-7 and the building size limitations of 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 farm tract, 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.

B. Agricultural worker housing providing accommodations consisting of no more than 36 beds in group living quarters per legal lot or 12 units or spaces per legal lot 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 such 36 beds or 12 units shall be subject to the density requirements applicable to the zoning district. An application for agricultural worker housing above such 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.

c) Proposed Implementation Plan Amendment

The proposed IP amendment implements the aforementioned LUP agricultural protection policies in various sections. Chapter 22.32 includes standards for specific development, including agricultural dwellings units 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), clustering, and permitting requirements, including that a restrictive covenant is required for agricultural worker housing to ensure 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 Coastal Agricultural and Resource-Related (C-APZ, C-ARP, and C-OA) districts. The table designates specified types of agricultural uses as principally permitted for C-APZ and C-ARP districts, including accessory activities and structures, one intergenerational home, one farmhouse, and agricultural production, with additional permitted 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. Chapter 22.130 defines all uses and in some cases, such as for “agriculture, ongoing”, identifies when the development associated with a certain use requires a permit, because it does not qualify as “ongoing agriculture”. Finally, as discussed earlier, Section 22.65.040 describes the specific standards for the C-APZ, and lists the required development standards applicable for non-agricultural development (including that permanent conservation easements shall be required to preserve undeveloped land).

The proposed IP amendment incorporates the majority of the Commission’s 2016 suggested modifications regarding agricultural provisions, but a few changes are now proposed by the County to build on the Commission’s 2016 action, including clarifying certain standards and requirements, and addressing concerns from the public and the agricultural community. Specifically, the following changes are now proposed by the County in this newest submittal (see **Exhibit 1** for the full text of the proposed IP amendment and **Exhibit 4** for the specific changes made by the County to the Commission’s 2016 conditionally certified version of County-identified amendments 3 and 7):

- *Definition of agriculture, ongoing:* The County’s proposed amendment now includes grazing, raising of animals, and other production activities that the County’s Community Development Agency (CDA) Director determines are similar in nature and intensity, as examples of agricultural production activities that can be considered ongoing if they have not expanded into areas never before used for agriculture. In addition, the definition refines the types of activities that would *not* constitute ongoing agriculture regardless of their location to include installation of new or extension of existing irrigation systems and agricultural production activities that the CDA Director determines will have significant impacts to coastal resources.
- *Section 22.32.062, educational tours:* The County’s proposed amendment adds specificity to what is considered revenue in determining whether an educational tour is not for profit.
- *Section 22.62.060, other agricultural uses:* The proposed amendment modifies language in LCP Section 22.62.060 to clarify that listed agricultural uses are considered appurtenant and necessary to the operation of agriculture as long as they meet the

specified standards.

- *Changes to footnotes in the agricultural tables 5-1(a-e):* The proposed amendment adds a new footnote in coastal agricultural and resource related land use Tables 5-1-a through e to indicate that certain agricultural production activities occurring within the C-APZ, C-ARP, and C-OA zones that meet the definition of ongoing agriculture may be exempt.

d) Consistency Analysis

Ongoing Agriculture

Coastal Act Section 30106 provides the Coastal Act’s ‘development’ definition, and states that the removal or harvesting of major vegetation for agricultural purposes does not constitute development for coastal development permit (CDP) purposes, but that any other activity, including agricultural activities, that meet the definition *is* development in need of CDP, including for a change in the intensity of use of land or water, or for grading. Coastal Act Section 30106 States:

“Development” 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).

As used in this section, “structure” includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Consistent with Coastal Act Section 30106 and LCP provisions, the 2016 certified pending IP Section 22.68.030 (Coastal Permit Required) states that a CDP is required for all development in the coastal zone, and the development definition matches that in the Coastal Act above, and it also identifies exceptions for development that is categorically excluded or exempt, and further identifies that the de minimis waiver process may be available. IP Section 22.68.050 more specifically lists activities exempt from CDP requirements including “ongoing agricultural activities” (IP Section 22.68.050 (L)) as further defined in proposed IP Section 22.130.030 (Definitions of Specialized Terms and Phrases) as “Agriculture, ongoing,” which states:

Agricultural production activities (including crop rotation, plowing, tilling, planting, harvesting, seeding, grazing, raising of animals, and other production activities the Director of CDA determines are similar in nature and intensity) which have not been

expanded into areas never before used for agriculture. Determinations of such ongoing activities may be supported by Marin County Department of Agriculture, Weights and Measures information on such past activities.

The following types of activities are not considered ongoing agriculture.

- *Development of new water sources (such as construction of a new or expanded well or surface impoundment),*
- *Installation of new or extension of irrigation systems, or the extension of existing irrigation systems*
- *Terracing of land for agricultural production,*
- *Preparation or planting of land for viticulture,*
- *Preparation or planting of land for cannabis,*
- *Preparation or planting of land with an average slope exceeding 15%*
- *Other agricultural production activities that the Director of CDA determines will have significant impacts to coastal resources*

A Coastal Development Permit will not be required if the County determines the activity qualifies for a de minimis waiver pursuant to the requirements Section 22.68.070 or is categorically excluded pursuant to Categorical Exclusion Order 81-2 or 81-6.

The Commission has grappled with the question of what types of agricultural activities constitute 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. New and/or 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 never before used for agriculture for a 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, as does a change in the intensity of land or water use and grading, so such activities cannot be exempted from CDP requirements in the LCP.

During the course of the LCP update process, much discussion has occurred between Marin County and Commission staffs, and the Commission has also much discussed the issues surrounding the need for CDPs for agricultural activities that constitute development during its deliberations on the Update. That Commission discussion has made clear that CDPs are required for all development that is not exempted by the Coastal Act and its implementing regulations, including agriculturally-related development that does not constitute ‘the removal or harvesting of major vegetation for agricultural purposes’ (i.e., which is not considered development under the Coastal Act). Yes, agriculture has always been and remains a priority use under the Coastal Act, but it is not otherwise exempted from its permitting requirements. Many agricultural counties, including Marin, have used the tool that the Coastal Act provides to create exclusions from CDP requirements for certain agricultural activities, namely the categorical exclusion process, but that is a separate concept altogether. In fact, the whole premise of the categorical exclusion process is that the Coastal Act requires a CDP for certain activities, and a local government, in this case Marin County, can apply to the Commission to exempt certain activities

from the need to obtain such a CDP, and the Commission can allow same subject to evidence and findings showing that the activities in question do not have the potential for adverse coastal resource impacts. The County availed themselves of this route in 1981, and the Commission adopted Categorical Exclusion Orders exempting certain agricultural activities in Marin at that time (Categorical Exclusion Orders E-81-2 and E-81-6), and these Orders remain in effect today. The fact that that process occurred, and the Exclusion Orders have been in effect and applicable to agricultural activities ever since, is acknowledgment of the need for CDPs for such activities going back to the inception of the program.

Given that requirement, and recognizing both the priority given agriculture by the Coastal Act and the history and sustainable culture of Marin County agricultural operations specifically, the Commission has attempted to provide streamlined processes for agricultural development to minimize potential issues, including through the Exclusion Orders, a waiver of CDP requirements process, an administrative review process (i.e., not requiring a public hearing), and also clear identification of what ongoing agricultural activities don't require a CDP. All of which has already been certified by the Commission. At the last hearing on the Update (i.e., the November 2, 2016 hearing), the Commission again actively debated the way in which to identify certain types of ongoing agricultural activities that would be allowed to continue without the need for additional CDPs. The basic premise of the debate was how to allow agricultural operators to continue to do what they have been doing on their agricultural properties, including crop rotation and grazing management, without the need for CDPs. All parties were in agreement on this basic premise, including because all parties desired to support Marin County's agricultural community as much as possible, but there were some questions about how best to define the activities that might not require a CDP and the activities that would. The basic reason distilled being that the operations that have been ongoing and either pre-date CDP requirements or already have a CDP are allowed to continue in that basic form without new CDPs. The Commission ultimately adopted an ongoing agricultural definition that was supported by the County at that time. Since then, though, the County has continued to debate the definition locally, including in response to specific requests of the agricultural community.

Given the above, Commission staff worked diligently with County staff to try to come to agreement on those activities that would constitute "Agriculture, ongoing" and thus not require a CDP consistent with Coastal Act and County LUP requirements. Staffs have made much progress. Accordingly, the proposed definition now describes "Agriculture, ongoing" to include agricultural production activities (such as crop rotation, plowing, tilling, planting, harvesting, seeding, grazing and raising of animals, etc.) that haven't been expanded into areas never before used for agriculture. As such, to the extent that rotational crop farming or grazing has been part of a regular pattern of agricultural practices, rotational changes are not a change in intensity of use of the land despite the fact that the grazing and crop growing are occurring at different times on different plots of land, and thus any activities meeting that specific definition are considered "ongoing agriculture". The County also proposes to include in the "ongoing agriculture" list other production activities that the CDA Director determines are similar in nature and intensity if they have not expanded into areas never before used for agriculture.

It is important to note that existing agricultural production activities exempt per this definition are only considered ongoing agriculture if they qualify as one of the already allowable uses on agricultural land. The County proposed definition is not intended to allow the continuation of

any unpermitted activity on agricultural land just because it has previously been occurring. Instead the definition removes the upfront burden of proof from an individual farmer that all activities must be shown to be permitted as part of a CDP application process in recognition of the fact that agricultural activities, including cattle grazing, have historically been occurring on properties in Marin for decades prior to adoption of the Coastal Act and CDP requirements. If the extent of agricultural production activities were to be contested, the proposed definition acknowledges that determinations of ongoing agricultural activities may need to be supported with evidentiary information such as information from the Marin County Department of Agriculture, Weights and Measures.

In addition, the County proposed definition of “Agriculture, ongoing” identifies six types of agricultural production activities that are *not* to be considered ongoing and would require a CDP regardless of where they are occurring. Thus, even if agricultural activities are occurring in existing areas and are allowable uses, if it meets any of the criteria that require a CDP, such as if the activity changes the intensity of use of land, it would still require a CDP. As described further in the Agriculture Chapter of the LUP, the coastal environment present in Marin County consists of high quality grasslands that support the majority of Marin’s animal agricultural industry, while other factors such as the steep slopes, hills, non-prime soils, and limited water sources restrict the expansion of intensive row crop cultivation. Recognizing these constraints unique to Marin agriculture, the County-proposed definition of ongoing agriculture captures types of agricultural activities, including an enumerated list of activities currently recognized by the Marin County agricultural community, that would clearly change the intensity of the use of land and/or raise particular coastal resource concerns and that would require a CDP. This enumerated list includes uses that would intensify water usage and require development of new water sources such as construction or expansion of new or expanded wells and installation of new or extension of existing irrigation systems. This list also captures uses that would fall outside the scope of routine agricultural practices, such as terracing of land, viticulture, and activities on steep slopes. Any similar use not enumerated but that would result in significant coastal resource impacts would also still require a CDP per the County’s proposed list of agricultural activities that are not considered ongoing agriculture.

There has been some debate as to whether a proposed change from grazing to row crops (again, not expanding into never before used areas) should be included in this enumerated list of activities that require a CDP. Given the particular context of Marin, there are a number of cases in which the conversion of grazing to row crops would not intensify the use of land or require grading and or water sources, and thus not categorically require a CDP per the definition. These examples could include the growing of grasses for silage to feed grazing animals or dry farming of potatoes or other crops that would not intensify the use of water, and that did not otherwise trigger CDP requirements. The Commission also recognizes the need to provide farmers with the flexibility to adjust their agricultural practices to respond to changing market conditions or environmental factors, and the LCP recognizes that farmers should be allowed to do so in as streamlined a manner as possible. As such, in Marin County, agricultural activities that convert grazing land to row crop do not categorically require a CDP, unless they would intensify the use of land or water, or require grading not already exempt or excluded, or would otherwise result in development that triggers CDP requirements pursuant to the definitions. Due to the limited prime soils, steep slopes, and water availability in Marin County, activities that convert grazing areas to row crop and increase the intensity of use of land often are generally captured within the other

proposed enumerated categories that require development of new water sources, development of new or expansion of existing irrigation systems, or terracing of land or planting on a slope exceeding 15%, which all would require a CDP per the County's proposed definition.

There has also been much public concern expressed about the conversion of grazing land to viticulture, due to viticulture's water requirements and visual impacts to the landscape, and/or cannabis production, due to the unknown consequences of the legalization of marijuana and the subsequent new commercial cannabis industry. To ensure these uses are developed in a manner consistent with the Coastal Act and County LUP, the County's definition includes these uses in the list of activities which require a CDP.

Therefore, the proposed definition is consistent with Section 30106 and the County LUP policies relevant to development in agriculture zones. The definition differentiates between types of agricultural activities that independently constitute development because they expand into never before used areas or represent a change in the intensity of use of land and water or require grading. Further, since the six County-enumerated activities that constitute development requiring a CDP do not comprise all potential types of activities that may result in impacts to coastal resources, the County included an additional catch-all provision in the list to ensure that any potential or unforeseen future agricultural production activities that would result in significant impacts to coastal resources would also require a CDP.

The Commission notes that it has been alleged by some that the County's proposed definition would institute a *new* coastal permit requirement for agriculture where one did not previously exist, inconsistent with the Coastal Act and the Commission's own guidance on this point. The Commission respectfully disagrees with this characterization and wishes to clarify the record. Since 1982, the County's certified LCP has included agricultural production as the principal permitted use in the Coastal Agricultural Production Zone. However, even development that is designated as principally permitted is not exempt from coastal permitting requirements. Therefore, since certification in 1982, proposed changes in the intensity of the use of agriculturally zoned land, as well as agricultural grading into areas not previously farmed, and other development that met the development definition required County-issued coastal permits. Thus, the County proposed definition does not "establish" or create a new coastal permitting requirement for agricultural production in Marin County. Rather, such a permit process has existed in the C-APZ portion of the County since 1982 (and prior to LCP certification through the Commission). In short, the definition recognizes the unique attributes of farming in Marin, and responds appropriately, including to public concerns and comments received on this topic. It also respects both the Coastal Act and the Commission's guidance related to agricultural activities over the years.

Further, the LCP includes a series of provisions to help streamline agricultural activities in relation to coastal permitting, if and when coastal permits are required. For example, even if an agricultural development is found to require a CDP, the 2016 certified pending portions of the LCP's IP concerning coastal development permit requirements 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. As defined in these exclusion orders, agriculture means the tilling of soil, raising of

crops, horticulture, viticulture, livestock, farming, dairying and animal husbandry, including all uses customarily incidental and necessary thereto. These exclusions apply to specified parcels zoned Agriculture at the time of the exclusion orders' adoption that are located outside the tideland and similar areas prohibited for exclusions by Coastal Act Section 30610.5(b) and outside of the area between the sea and the first public road or a 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 1981 zoning ordinance). As such, in order for development to be excluded, it would need to meet the 1981 zoning ordinance 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.

Further, development must be also be consistent with April 1981 zoning requirements which include that dwellings be incidental to the primary and principle agricultural use of the land as demonstrated by the applicant and requires design review for agricultural buildings unless they meet certain criteria. Any conversion of an agricultural structure, constructed under the categorical exclusion order, to a principally permitted use without a public hearing would need to meet all above-identified statutory and regulatory requirements. These standards in part would address issues related to intensification of use, including with respect to parking standards and the size of the facility. In addition, intergenerational homes, for example, are not excluded because they were not an allowed use on C-APZ lands when the Orders were adopted. To ensure that the applicable zoning is applied to such categorically excluded development, the County has included Appendix 7a, Title 22 of the Marin County Code Zoning Ordinance from April 1981. Appendix 7a represents the zoning in effect at the time of the categorical exclusion's adoption and requires that any application for excludable development establish zoning consistency. Even with these caveats, much of the newly proposed 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 2016 certified pending portions of the IP offer new tools to streamline the permitting process even further. These streamlined procedures include the ability of the County to process de minimis CDP waivers (IP Section 22.68.070), and reduced processing without the need for a public hearing (IP Section 22.70.030(B)(5)). With respect to de minimis waivers, 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 County Board of Supervisors. The proposed waiver must be noticed to the Executive Director of the Coastal Commission, who then has the right to request that waiver not be issued and that a regular CDP be obtained if the project may result in coastal resources impacts, consistent with the process for de minimis waivers specified in the Commissions regulations. The new County 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 CDP requirements cannot be waived), 30624.9 allows for certain types of development, defined as "minor" development, to be allowed without the otherwise required public hearing if notice is provided and such a hearing is not specifically requested. 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.

The proposed definition of ongoing agriculture specifically recognizes the categorical exclusions and waiver process described above and includes language specifying that even activities listed as requiring a CDP may be waived pursuant to the requirements of Section 22.68.070, or excluded pursuant to Categorical Exclusion Order 81-2 or 81-6. Similarly, the County has included a new footnote in coastal agricultural and resource related land use Tables 5-1-a through e, to indicate that certain agricultural production activities occurring within the C-APZ, C-ARP, and C-OA zones that meet the definition of ongoing agriculture may be exempt and processed consistent with IP section 22.68.050(A)(12).

Some public commenters have expressed concern that the definition of ongoing agriculture would provide the CDA Director with too much discretion over determining what types of agricultural production activities meet the definition of ongoing agriculture. However, any determination made by the CDA Director per this definition would have to be considered within the context of all other language contained within the definition. For example, while the definition includes the statement “other production activities the Director of CDA determines are similar in nature and intensity” it also provides examples of such activities including crop rotation, plowing, and tilling that have not been expanded into areas never before used for agriculture. These activities, and their related nature and intensity, will serve as a basis for comparison when the CDA director is considering any other type of agricultural production activity not specifically listed in the definition. Similarly, in identifying other agricultural production activities that do not meet the definition of ongoing agriculture because they will result in significant impacts to coastal resources, the CDA Director will be able to consider additional production activities within the context of the already identified activities listed in the definition that are not considered ongoing agriculture, regardless of where they are occurring, such as expansion of new or extension of existing irrigation systems, or preparing or planting of land for cannabis.

Other commenters have expressed concern that this language would also allow the CDA Director to exempt additional production activities if they find that they do not have significant impacts to coastal resources. As a first step, the CDA Director would have to determine whether or not the use meets the definition of ongoing agriculture in order to be exempt. If it does not qualify for this or any other exemption or exclusion, it would require a CDP. At that point, the CDA Director can determine the activity would not result in impacts to coastal resources and could waive CDP requirements consistent with the noticing and procedural requirements outlined in the 2016 certified pending LCP IP administration procedures in Section 22.68.070. Finally commenters are concerned that exempt agricultural production activities would not be subject to a public noticing and that there would be no opportunity for challenges to the County’s determination. However, such exemptions can be challenged per the LCP Section 22.70.040 and pursuant to Title 14, Section 13569 of the California Code of Regulations. In the cases for ongoing agriculture where the CDA Director’s discretion was used, that discretion would transfer to the Coastal Commission’s Executive Director and/or the Commission itself in its review of any particular challenged exemption.

Educational Tours

With respect to educational tours, the new proposed changes to LCP Section 22.32.062 provide further clarification on the meaning of “not-for-profit tours,” which are principally permitted uses in the C-APZ through LUP Policy C-AG-2(A)(5)(b), for implementation purposes.

Specifically, as proposed by the County, if the educational tour is owned or operated (including by third parties) by a non-profit, and the tour does not charge a fee (i.e., the tour does not generate revenue in excess of the reimbursement costs), such use is principally permitted in the zone; if owner/operator or third party charges a fee that generates revenue, then the use is only considered permitted (but not principally) because in this instance, profit is generated, making this a commercial use in a zone where the PPU is agriculture, not commercial profit-generating tours.

Thus, as proposed, even though uses such as not-for-profit educational tours can be considered agricultural, for-profit tours are considered commercial uses subject to a conditional use permit, helping to ensure that any such commercial use protects and maintains land designated for agricultural production consistent with the requirements of C-AG-2. Further, the County has clarified, and the Commission agrees, that payments to the operator or staff for their time (e.g., hourly rate charges); charges for the use of the farm or its facilities for the educational tours; and revenues generated for non-profit organizations through the educational tours or, as now specified in the IP language, the collection of charitable donations by non-profit organizations in connection with an educational tour, are all not considered revenue for the purposes of determining whether a tour qualifies as a permitted or principally permitted use in the zone and in implementing Section 22.32.062.

Other Agricultural Uses

Similar to the language contained in LUP Policy C-AG-2(A)(5), proposed IP Section 22.62.060 lists principally permitted agricultural uses allowed in the C-APZ zone and includes a set of “other agricultural uses” which are “appurtenant and necessary” to the operation of agriculture, limited to certain agricultural product sales and processing, and not for profit educational tours. The proposed language is slightly modified from the 2016 certified pending version in order to clarify that the uses specified are “appurtenant and necessary” to the operation of agriculture as long as they meet the specified standards and don’t require an additional test to evaluate the appropriateness of such uses for the C-APZ zone. This does not result in a substantive change because all principally permitted uses in the C-APZ still need to meet all other requirements and development standards subject to such principally permitted uses, including that they must be “accessory to, in support of, and compatible with agricultural production” pursuant to the language of C-AG-2. Allowing such “other agricultural uses” that support agriculture as types of development designated as principally permitted in the agricultural production zone is consistent with the Coastal Act and applicable Marin County LUP policies, not only because sustainable agricultural operations are critical to the long-term viability of agriculture in Marin, but also because development of such agriculture uses does not involve a conversion of agricultural land to a non-agricultural use.

The public has expressed concern that the changes made to IP Section 22.62.060 would allow for agricultural processing and sales facilities on existing agricultural lands that are not directly connected to or in support of the agricultural production activities occurring on the property and if considered principally permitted, such activities would not be subject to a public hearing process. First, principally permitted uses still need a CDP even if they are not appealable to the Coastal Commission. And appealable CDP processes require a public hearing for any such CDP action. Also, any principally permitted uses that require another discretionary approval will also

require a public hearing and can be appealed locally to the Board of Supervisors. Further, the principal permitted use of the C-APZ is agriculture, defined to include agricultural production, and the structures that truly support agricultural production (agricultural accessory structures, agricultural dwelling units, agricultural sales and processing facilities). In order to classify development other than agricultural production itself as a principally permitted use of agricultural land, development must in fact be supporting agricultural production. LCP Policy C-AG-2 ensures that principle uses on C-APZ land is agriculture and that any development on such lands shall be “accessory and incidental to, in support of, and compatible with agricultural production” to even be considered such agricultural uses under the LCP. In the case of agricultural production facilities and agricultural retail sales, these facilities must also be appurtenant and necessary to the operation of agriculture per definition. Thus, the proposed language will ensure that such facilities are directly connected to the production activities occurring on site.

Takings

While some public commenters expressed concern about expanded development potential and decreased appellate oversight by the Commission due to 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, a colorable taking claim rests on the deprivation of economic use of a property. Additionally the commenters fail to recognize the limitations in the existing 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.” Fourth, the existing LCP allows for one single-family residence per parcel, with parcel defined as all contiguous assessor’s parcels under common ownership (unless legally divided) and limits the density of dwelling units to a maximum density of one unit per sixty acres, with the actual density to be determined through a master plan process. Lastly, the existing LCP requires permanent conservation easements recorded over the portion of the property not used for physical development, and a prohibition on further division of the property to be executed as a covenant against the property.

Rather than deviate from the framework set up in the existing LCP, the certified pending LUP policies serve to limit the proliferation of agricultural dwelling units in the coastal zone by acknowledging that the “farm tract,” defined as all contiguous lots under common ownership, 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 contiguously owned legal parcels that are under common ownership in the commercial agricultural zone, the certified pending LCP Policy C-AG-5 only allows for one

farmhouse, or one farmhouse and up to two intergenerational homes per farm tract, to allow for family members (or any other person authorized by the owner) to live on the farm property. As observed in the existing 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. Therefore, the LCP Update provisions seek to cluster permissible development and direct other construction to existing communities where it can be accommodated. The proposed IP similarly implements the certified pending LUP provisions and the concept of the farm tract through IP Sections 22.32.024 (Agricultural Dwelling Units), 22.32.023 (Agricultural Homestays), 22.62.060 (Coastal Agricultural and Resource Related Districts) and 22.32.130 (Definitions).

Public commenters also express concern regarding the language pertaining to affirmative agricultural easements and restrictive covenants. Specifically, proposed IP Sections 22.32.02(D) and 22.32.025(B), require a recording of a restrictive covenant with the development of a farmhouse or intergenerational home ensuring that such agricultural dwelling units will not be divided or sold separately from the rest of the agriculturally zoned legal lot. However, proposed LCP Section 22.32.024(F) expressly relieves agricultural leases from the limitation on dividing farmhouses and intergenerational homes from the rest of the legal lot containing the farmhouse and intergenerational home. In addition, LCP Section 22.32.024(D) expressly states that nothing in its provisions shall be construed to prohibit the sale of any legal lot comprising the farm tract, nor require the imposition of any restrictive covenant on any legal lot comprising the farm tract, other than the legal lot upon which the farmhouse and up to 2 intergenerational homes is authorized. Thus, any legal lot sold from a farm tract could be developed consistent with the LCP provisions.

Therefore, the Commission finds that the proposed IP protects and enhances the agricultural productivity and viability of the County's agricultural production zone consistent with the certified pending LUP. By limiting agricultural dwelling units within the agricultural production zone, 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.

Carbon Sequestration

During the local hearings on the proposed LCP amendment, the Marin County Board of Supervisors requested that the definition of ongoing agriculture be inclusive of carbon sequestration. As stated in a letter from the County (See **Exhibit 4**) the rationale for this request was based on the similarities between the types of agricultural production activities listed in the definition (e.g. crop rotation, plowing, and tilling) and the application of compost material on rangeland which functions as a method for removing carbon dioxide from the atmosphere. Recognizing that the term carbon sequestration could include other practices which may or may not fit within the definition of ongoing agriculture, that particular term was excluded from the current definition. However, the County can still consider carbon sequestration farming techniques, such as compost application, as a potential activity that could be exempt from CDP requirements as long as it is consistent with the other language found within the definition of ongoing agriculture. Specifically, if a carbon sequestration farming technique would require a change in the intensity of land use similar to those uses specified in the enumerated list, if it was

expanding into areas never used for agriculture, and/or if it was determined by the CDA director to have significant impacts on coastal resources, such an exemption would not apply. However, if the carbon sequestration farming technique was an ongoing practice within an area already used for agriculture similar to the types of agricultural production activities already included in the definition, was not changing the intensity of use of land, and did not otherwise trigger CDP requirements, it could also be exempt.

Conclusion

The proposed IP sets up a structure for agricultural development that dictates a CDP is not required for ongoing agricultural activities, clarifies that many new agricultural activities may be excluded from CDP requirements (including production and grading activities and other structural development if it meets specific criteria), and, even if a CDP is required, the IP allows for waivers of permitting requirements (including if the use is a principally permitted and non-appealable use) or that such proposals can be deemed as minor. Consistent with the LUP, the IP also establishes allowable uses within the various agricultural zoning districts and sets forth standards and criteria agricultural development must meet in order to be considered principally permitted. As such, as modified, the LCP provides numerous tools to streamline permitting requirements for the County's agricultural community and maximize public participation in the protection of the agricultural economy, all consistent with the 2016 certified pending LUP.

2. Habitat Resources

a) 2016 Certified Pending Land Use Plan

The Marin County coastal zone contains a wide variety of habitat types and geologic features, including a broad range of estuarine and marine environments, tidal marshes, freshwater wetlands, streams, upland forests, chaparral, grasslands, dunes, and beaches. Because so much of the coastal zone is rural, the protection of these habitats, including through policies that specify allowable uses within them and clearly defined development standards, is critical.

The 2016 Commission-certified pending LUP's proposed biological resources policies limit the allowable uses within particular sensitive resource types, including for wetlands, streams, and terrestrial ESHA, and also provide additional detail and clarity in terms of biological resource protection standards. Foremost, the 2016 certified pending LUP requires development proposals within or adjacent to ESHA to prepare a biological site assessment (by a qualified biologist). The purpose of the assessment is to confirm the presence/absence of ESHA and/or sensitive species, document site constraints, recommend appropriate buffer widths, and recommend siting/design techniques required to protect and maintain the biological productivity of the resources onsite. The 2016 certified pending LUP includes buffer requirements (specifically, 100 feet for wetlands and streams, and a newly defined 50 feet for terrestrial ESHA), and also requires that uses allowed within the buffers surrounding ESHAs are only those that are allowed within the ESHA itself (except for terrestrial ESHA, wherein any use is allowed within the buffer, so long as it does not significantly degrade the habitat). Further, the 2016 certified pending LUP allows for a reduction in required buffers to absolute minimums of 50 feet for both wetlands and streams, and an absolute minimum of 25 feet for terrestrial ESHA. However, a buffer reduction is allowed only where consistent with required findings of the biological site assessment and upon a project

condition that there is a net environmental improvement (including through elimination of non-native or invasive species) over existing conditions, among other requirements.

b) 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.*
- 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 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 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-18 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-19 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-25 Stream Buffer Adjustments and Exceptions.

1. *A buffer adjustment to less than that required by C-BIO-24 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.*

c) Proposed Implementation Plan Amendment

The proposed IP amendment 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, the IP section requires the County 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 is required. Per proposed IP Section 22.64.050(A)(1), the assessment is to be prepared by a qualified biologist, confirming both the existence and extent of ESHA, recommending appropriate siting and design measures and buffer widths, and including mitigation measures if potential significant impacts are identified, in order to protect the resource. Section 22.64.050(B) lists the required biological resource 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. The proposed IP allows reductions to buffers to be considered only when supported by evidence that the reduction is the minimum necessary and will prevent impacts that degrade ESHA. See **Exhibit 1** for the full text of the proposed IP amendment.

d) Consistency Analysis

In general, the proposed IP submitted by the County for Commission consideration implements the certified pending LUP's required biological resource protection standards and offers additional details on the CDP submittal requirements necessary to ensure such sensitive habitat protection. Proposed 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 be prepared only by a qualified biologist).

IP Section 22.64.050(A)(1)(b) also requires that mitigating for ESHA habitat loss or adverse impacts is only allowed as a mitigation strategy when there are no feasible alternatives that would avoid otherwise permissible ESHA impacts. 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 mixes land use and environmental considerations, and 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. However, to ensure that buffer reductions are appropriate, LCP Section 22.64.050(A)(1)(c) requires that, for buffer reductions, the applicant must provide clear and convincing evidence, concurred on by the decision-making body, that the reduction is not just necessary, but unavoidable, and the reduction will be compatible with the continuance of the ESHA, consistent with C-BIO-1.

Thus, the proposed IP 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 proposed IP is thus adequate to carry out the 2016 certified pending LUP.

3. Habitat Resources

a) 2016 Certified Pending Land Use Plan

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, may also be present in the watersheds of the coastal zone. Land development and construction activities are key contributors to sedimentation and nutrient inputs to coastal waterways. 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 2016 Commission certified pending LUP Update includes a variety of important policies to address water quality issues, including policies that require the protection of natural drainage systems, site planning to address drainage and polluted runoff, and the use of Best Management Practices (BMPs). The storm water and water quality provisions address current water quality planning standards such as the prevention of non-point source pollution. The 2016 certified pending LUP incorporates robust and quantitative storm water and water quality protection provisions to mitigate both construction and post-construction water quality impacts. In addition to general provisions that require all development to minimize grading and impervious surface area through measures such as Low Impact Development (LID), the certified pending LUP also targets specific types of development, defined as high-impact projects (i.e., any development that results in the creation of 5,000 square feet of impervious surface and occurs within 200 feet of the ocean or coastal wetlands, streams, or ESHA) for their particularly acute water quality impairment potential. These requirements complement other LUP policies, including providing protections against development in and surrounding coastal waters and limiting allowable land uses in coastal waters, such as mariculture operations, to those that meet specific LUP water quality protections.

b) Applicable Land Use Plan Policies

C-WR-2 Water Quality Impacts of Development Projects.

Site and design development, including 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.*

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.

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.

c) Proposed Implementation Plan Amendment

The proposed IP implements the water resource policies through Section 22.64.080 which outlines application requirements for projects which may have a potential impact on water quality, water quality standards for new development, and grading and excavation standards.

d) Consistency Analysis

In general, the IP implements corresponding water quality protection policies via its general construct of cross-referencing the corresponding LUP policy. For example, proposed Section 22.64.080(B)(2) requires that development meet the site design and source control measures contained in LUP Policy C-WR-2. Therefore, LUP policies that specify the requirement of plans to address 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, will be implemented.

To achieve consistency with requirements of the LUP, IP Sections 22.64.080(A)(1) and (2), requiring water quality impairment assessments, ensures that all projects for new development and modifications to existing development are first reviewed for their potential water quality impacts and that drainage plans are required for any project determined to potentially impair water quality through the initial assessment consistent with LUP water resources protection

policies. Thus, the proposed IP conforms with and is adequate to carry out the 2016 certified pending LUP.

4. New Development, Visual Resources and Community Character

a) 2016 Certified Pending Land Use Plan

The Marin County coastal zone contains 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, which is surrounded by agricultural and open space lands that offer a pastoral, rural character, and an oftentimes spectacular public views along the shoreline (e.g., along Highway 1).

The 2016 Commission certified pending LUP Community Design and Community Development Chapters contain general policies and standards that apply coastal zone-wide, as well as additional community-specific policies that contain particular standards for the nine coastal villages, which protect scenic and visual resources and ensure development is located contiguous with or in close proximity to existing development or in other areas with adequate public services and where it will not result in impacts to coastal resources. For example, LUP Policy C-DES-2 requires the protection of visual resources, including requiring development to be sited and designed to protect significant views (defined as including views both to and along the coast as seen from public viewing areas such as highways, roads, beaches, parks, etc.). This policy applies coastal zone-wide to all development, while, for example, Policy C-PRS-2, which encourages commercial infill within and adjacent to existing commercial uses in Point Reyes Station, only applies within the village itself. Community development policies focus on the land use constraints and opportunities in each coastal zone planning area, as well as the appropriate location and intensity of new development, and ways to assure that development will not have significant adverse effects, either individually or cumulatively, on coastal resources. These policies ensure community character and significant views are protected; that new development will be located within, next to, or in close proximity of existing development areas; and that development within coastal villages reflect the unique character of those communities.

b) Applicable Land Use Plan Policies

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-CD-9 Division of Beachfront Lots.

No land 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. 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 use of dry sand areas in accordance with Section 30211 of the Coastal Act.

c) Proposed Implementation Plan Amendment

The proposed IP implements these LUP policies primarily through Section 22.64.100: Community Design and 22.64.110: Community Development, 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” and 22.64.110(A)(7) requires “division of beachfront lots shall be restricted per Land Use Policy C-CD-9.” Additionally, Tables 5-4 and 5-5 within Section 22.64.030 lists the coastal zone development standards including maximum residential density, minimum setbacks, and maximum height, with footnotes clarifying when exceptions can be made or when design review may be required. More specific requirements for land divisions and non-conforming uses and structures are implemented in the certified pending IP Sections 22.70.190 and 22.70.160.

d) Consistency Analysis

In general, the proposed IP implements corresponding LUP visual resource protection policies and community development policies via its general construct of cross-referencing the corresponding LUP policy or adds the necessary specificity to implement the corresponding LUP policy. Therefore, LUP requirements that specify the need to protect views to and along the ocean, and direct the location of new development, are implemented.

Also, with respect to signs, the proposed 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, and provides the specificity needed to be effectively implemented, including defining what types of signs are prohibited through Section 22.64.100(A)(5). This section also requires that signs shall protect and enhance coastal resources, including significant public views and community character consistent with the related LUP policies. Finally, while some signs may be exempt from CDP requirements per Coastal Act Section 30610’s exemption for improvements to existing structures, Section 30106 defines development to include a change in access to water. The proposed IP therefore requires a CDP 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 is allowed.

LCP Section 22.64.110 requires that development conform to the land use categories and density provisions of the LUP Land Use Maps, and clarifies that these are maximums and to not represent an entitlement, consistent with the language of C-CD-10. LCP Section 22.64.110 also allows non-conforming structures to be maintained when consistent with Section 22.70.160, and more specifically directs development and the allowance of subdivisions in sensitive locations such as the Tomales Bay shoreline, on public trust lands, beachfront lots, and within villages to ensure the protection of coastal resources and consistency with LUP policies.

Therefore, the proposed IP policies implement the pending LUP in that they protect views to and along the ocean, direct the location of new development to protect visual resources and community character, including with respect to signs, and require that new development conform to other applicable standards so as to adequately protect any special community character that has been established. Thus, the proposed IP conforms with and adequately implements the 2016 certified pending LUP development, visual resource and community character policies.

5. Public Services

a) 2016 Certified Pending Land Use Plan

As stated in the 2016 certified pending LUP, water and wastewater requirements associated with most development in the Marin County coastal zone are addressed through individual property-specific systems managed by private landowners, including because 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 the 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 accounted for through 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 terms of transportation, the scenic character of the County's coastal zone is based in part on the small-scale, winding nature of Highway One and other rural coastal roads. 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.

The 2016 Commission certified pending LUP requires 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, etc.). Lack of such services constitutes grounds for denial or a reduction in the density/size of the proposed project. Additionally, public service expansions are to 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 2016 certified pending LUP 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 requirement that development located within a village limit boundary connect to the public sewer system (and not rely on a private septic system). While LUP 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 2016 certified pending LUP requires a CDP for all wells, with additional standards for wells serving five or more parcels. In terms of other public services, Policy C-PFS-18 prohibits desalination facilities in the coastal zone. For transportation, the 2016 certified pending LUP requires all roads in the coastal zone to remain two-lane roads per Policy C-TR-1. Additional transportation policies include provisions for bicycle and pedestrian facilities (Policies C-TR-4 through 9).

b) 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-4.a Reservation of Capacity for Priority Land Uses.

Coordinate with water service and wastewater service providers to develop standards to allocate and reserve capacity for Coastal Act priority land 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) Proposed Implementation Plan Amendment

The proposed IP implements the aforementioned LUP policies through Section 22.64.140, which includes public facility and service standards. These standards define 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. The standards also place limitations on the expansion of public services to the minimum necessary to adequately serve planned development. To address the need for water and wastewater service providers to develop standards to allocate and reserve capacity for Coastal Act priority land uses, the proposed IP includes a program to that effect in Section 22.64.140. The currently proposed

amendment to IP section 22.64.140(A)(1)(b) also provides additional clarification of the circumstances under which specific service capacity analyses are required for new or increase well production.. Per Section 22.64.140(A)(1)(b)(3), further specific analyses are required for public water supply projects, and all public and private water supply projects that would propose subdivision or rezoning of land that would increase intensity of use, or all public or private projects that increase water use by more than 50%.

d) Consistency Analysis

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 wastewater capacities in many locations are already burdened and will most likely not be able to accommodate future additional 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 non-community water systems (associated with Hog Island Oyster Company, Marshall Boat Works, Nick's Cove, and 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 County's coastal zone, including ensuring that there remains adequate water supply for Coastal Act priority land uses such as agriculture.

County Staff conducted an analysis of the commercial and mixed use zoning districts in the coastal zone to determine their locations relative to water and wastewater service areas. These include the C-VCR, C-H1, C-CP, C-RMPC, and C-RCR zoning districts. This analysis concluded that in terms of water, all of the areas containing visitor-serving zoning are served by a water district, except for the village of Tomales and two small commercial areas located in the East Shore/Marshall areas along Tomales Bay, which rely on wells for water service. With regards to wastewater, many of the areas with visitor-serving zoning are not within the boundaries of wastewater service district and, thus, are served by individual septic systems. This includes the mixed use areas in Dillon Beach, Point Reyes Station, East Shore/Marshall, Inverness, Olema, and Muir Beach. However, the commercial areas in Tomales, Stinson Beach, and Bolinas are provided wastewater services from the Tomales Village Community Services District, Stinson Beach County Water District, and the Bolinas Community Public Utility District, respectively.

Most of the water and wastewater service providers have sufficient water on an average annual basis and expect to meet existing and future water demand. Those that do not, such as the Bolinas Community Public Utility District and the privately run California Water Service Company (formerly Coast Springs Water Company) serving Dillon Beach, have moratoriums on new service hookups and expect to maintain them. However, some of the water service providers are strained to meet peak demands during the summer or would experience supply deficits during extended drought periods. The proposed IP mandates that project applicants in areas of limited public water service capacity must offset their anticipated water usage through the retrofit of existing water fixtures. The proposed IP also allows water service providers flexibility to select additional methods to offset water usage beyond replacement of water fixtures, given the diversity of incentives and programs utilized by the different water service providers. Water in the Marin County coastal zone is provided by a number of small community water districts, each of which may offer a variety of incentives and programs to encourage water conservation tailored to budget and customer needs, and thus, the IP allows for that flexibility.

With respect to applications involving new or increased well production, proposed IP Section 22.64.140(A)(1)(b) specifies requirements that such applications must meet to demonstrate the adequacy of water and ensure that such water usage will not impact nearby coastal resources or adjacent wells. For both public and private wells this includes submission of a report demonstrating that the well yield meets the LCP-required minimum pumping rate of 1.5 gallons per minute and that the water quality meets safe drinking water standards. There has been much discussion over the necessity of an additional standard for such wells including that they demonstrate that the extraction will not adversely impact other wells located within 300 feet of the proposed well; adversely impact adjacent or hydrogeologically-connected biological resources, including streams, riparian habitats, and wetlands on the subject lot or neighboring lots; and will not result in insufficient water supply available for existing and continued agricultural production or for other priority land uses on the same parcel or served by the same water source. The County had previously expressed concerns that this requirement, part of the 2016 Commission conditionally certified suggested modifications, would create a new requirement that would subject even small projects to expensive studies out of scale with potential impacts. As such, the County and Commission staff worked together to develop

thresholds for the size or intensity of projects subject to this specific requirement. As a result, this requirement would apply to very large new or expanded wells including public water supply projects, public or private projects proposing the subdivision or rezoning of land that would increase the intensity of use, or public or private projects on developed lots that would increase the amount of water use by more than 50%.

Public commenters have also raised concerns that limiting this standard to a subset of private and public projects would be insufficient to protect natural resources. However, regardless of this standard specific to wells, there are other resource protection standards throughout the LCP that would apply to all types of development, including requirements for biological assessments and habitat protection buffer areas as further discussed in the Habitat Resources section above. These natural resource protection policies would provide protections for sensitive resources associated with new development while the additional well requirement outlined in proposed Section 22.64.140(A)(1)(b)(3) would be reserved for larger projects with the potential to result in greater and more expansive impacts on surrounding resources and groundwater supply.

Public commenters have also raised concern about how the portion of this standard related to determining a 50% increase in water use will be implemented. The County has stated that its staff will be working to establish procedures for implementation of these standards. Such implementing procedures could include comparing the estimated water use of an existing use to the estimated water use of a proposed use to determine the 50% threshold.

As proposed, the IP conforms with and adequate carries out the public services provisions of the 2016 pending certified LUP.

6. Visitor-Serving Recreational Facilities

a) Applicable Coastal Act Policies

***Section 30210.** In carrying out the requirement of Section 24 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people, consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211.** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30212(a).** Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby; or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

Section 30212.5 *Wherever appropriate and feasible, public facilities including parking areas or facilities, shall be distributed throughout an area so as to mitigate against impacts - social and otherwise - of overcrowding or overuse by the public of any single area.*

Section 30213. *Lower cost visitor and recreational facilities shall be protected, encouraged and, where feasible, provided. Developments providing public recreational opportunities are preferred. The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.*

Section 30214(a). *The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: (1) Topographic and geologic site characteristics; (2) The capacity of the site to sustain use and at what level of intensity; (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses; (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter. (b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution. (c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

Section 30220. *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221. *Oceanfront land suitable for recreational uses shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for the area.*

Section 30222. *The 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 industry.

Section 30224. *Increased recreational boating use of coastal waters shall be encouraged in accordance with this division by developing dry storage areas, increasing public launch facilities, providing additional berthing space in existing harbors, limiting non-water dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.*

Section 30234. *Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

The Coastal Act requires the protection of public access and recreation opportunities, one of its fundamental objectives. The Act requires maximum public access to and along the coast, prohibits development from interfering with the public's rights of access, and protects recreational opportunities and land suitable for recreational use. Several policies contained in the Coastal Act work to meet these objectives. For example, the Coastal Act requires that development not interfere with the public right of access to the sea (Section 30211); provides for public access in new development projects with limited exceptions (Section 30212); encourages the provision of lower cost visitor and recreational facilities (Section 30213); addresses the need to regulate the time, place, and manner of public access (30214); requires coastal areas suited for water-oriented recreational activities to be protected (30220); specifies the need to protect ocean front land suitable for recreational use (Section 30221); gives priority to the use of land suitable for visitor-serving recreational facilities over certain other uses (Section 30222); requires the protection of upland areas to support coastal recreation, where feasible (Section 30223); and provides the location and amount of new development should maintain and enhance public access to the coast through various means (Section 30252).

b) 2016 Certified Pending Land Use Plan

The 2016 Commission certified pending 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. It 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 requires 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.

The proposed amendment includes one change to the 2016 certified pending LUP policies related to Parks, Recreation and Visitor-Serving Uses to clarify the principally permitted uses and related requirements for various geographic areas within the coastal village commercial/residential (C-VCR) zone. Since the 2016 action, the County worked closely with the local community to map a commercial core overlay zone within the C-VCR zone in a manner that would adequately reflect the priority commercial areas (see map on Pages 2-7 of **Exhibit 2**). As proposed, LCP Policy C-PK-3 implements this new overlay zone and: 1) designates commercial uses as the principal permitted use in the commercial core zone and residential uses as permitted or conditional uses; 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. 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. Additionally, outside of the village commercial core area, residential would be the principally permitted use while commercial would be a permitted use. 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 facilitate walkability within the village center.

c) Consistency Analysis

The C-VCR zoning district implements key Coastal Act and LUP objectives of prioritizing visitor-serving commercial uses (Section 30222) in existing developed areas (Section 30250). Policy C-PK-3, continues to permit a mixture of residential and commercial uses in the C-VCR zoning district to maintain the established character of these areas. Under Section 30603(a)(4) of the Coastal Act, in coastal counties, development not designated in the zoning district as *the* principally permitted use is appealable to the Commission. Thus, unless a zoning district identifies one type of principal permitted use, all development in the zoning district would be appealable to the Commission. To avoid this result, the County developed new LCP maps in order to implement an overlay zone within the C-VCR zone to designate where residential will be the principally permitted use and where commercial will be the principally permitted use. Both uses are allowed throughout the C-VCR zone, but the overlay maps will dictate terms of appealability and where additional standards need to be applied (e.g., for residential ground floor, road facing side uses, etc.).

Specifically, commercial would be the principally permitted use in the C-VCR core area as mapped in **Exhibit 2** and designated commercial development CDP actions on same (unless appealable for other reasons) would not be appealable to the Commission. Other uses in the C-VCR core area, such as residential, that are listed as “permitted” would not require a conditional use permit but would be appealable to the Commission. Outside of the C-VCR core area, residential uses would be the designated principally permitted use and would not be appealable to the Commission due to principally permitted requirements. Other uses outside the C-VCR core area that are listed as “permitted” would not require a conditional use permit but would be

appealable to the Commission. Those uses listed as conditional within or outside the C-VCR core would continue to require a conditional use permit and be appealable to the Commission. Further, proposed Policy C-PK-3 requires that residential uses only be allowed on the ground floor of a new or existing structure on the road-facing side of the property within the commercial core where a finding is made that the development maintains and/or enhances the established character of village commercial areas. Thus, as proposed, Policy C-PK-3 ensures that a mix of commercial and residential uses will continue to thrive in the villages, but that commercial use remains the primary use in the commercial core areas and that residential uses will only be allowed consistent with the requirements of Coastal Act Section 30222.

Regardless of the location within the C-VCR zone, it is important to note that Policy C-PK-3 does not prohibit new or existing residential uses. Existing legal residences are allowed to continue in these areas without any further requirements. Going forward, the policy would allow residential uses located on the upper floors, or on the ground floor of a new or existing structure not fronting the street in the commercial area, as a permitted use. However, if a new residential use is proposed on the ground floor of a road-facing property, a finding would be required to ensure that the residential use maintains and/or enhances the established character of village commercial core areas. Residential and affordable housing would continue to be a permitted use in the C-VCR zoning district, as well as within the proposed village commercial core area.

Thus as proposed, the proposed LUP C-VCR changes protect and provide for public access and visitor-serving uses and are consistent with the Chapter 3 access, recreation and visitor-serving policies of the Coastal Act.

d) Applicable Land Use Plan Policies

C-CD-14 Residential Character in Villages.

Consistent with the limitations to the village core commercial area outlined in C-PK-3, 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.

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.

Within the mapped village commercial core area of the C-VCR zone Commercial shall be the principle permitted use and Residential shall be a permitted use. In this 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. Within the commercial core area (i.e. the central portion of each village that is predominantly commercial) residential uses on the ground floor of a new or existing structure of the road-facing side of the property shall only be allowed provided that the development maintains and/or enhances the established character of village commercial core areas.

Outside of the village core area of the C-VCR zone, Residential shall be the principal permitted use, and Commercial shall be a permitted use.

Maintenance and repair of any legal existing residential use shall be exempt from the above provision and shall be permitted.

C-PA-2 Provide New Public Coastal Access in New Development.

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 to provide segment(s) of the California Coastal Trail as provided by Policy C-PK-14, as a condition of development, in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: (1) Topographic and geologic site characteristics. (2) The capacity of the site to sustain use and at what level of intensity. (3) The appropriateness of limiting public access to the right to pass and re-pass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses. (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter. 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-3 Exemptions to Providing New Public Coastal Access.

The following are exempt from the requirements to provide new public coastal access pursuant to Policy C-PA-2:

- 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) of the Coastal Act 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.*

C-PA-12 Agreements for Maintenance and Liability Before Opening Public Coastal Accessways.

Dedicated coastal accessways shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

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, taking into account resource protection policies. Consider opportunities for reducing or eliminating parking capacities if transit service becomes available or increases.

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.*

e) Proposed Implementation Plan Amendment

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 have priority over residential or general commercial development, and that a mixture of residential and commercial uses are allowed in the C-VCR district.

The amendment brings implementing provision Section 22.64.170(A)3 and LUP Policy C-PK-3 into conformity with one another, ensuring that commercial uses remain the primary use in the C-VCR zoning commercial core and clarifying restrictions pertaining to residential uses in this zoning. For example, in the commercial core area, residential uses shall be less conspicuous, and variances allowed provided that the proposed use maintains or enhances the established commercial area character. Outside of the village commercial core area within the C-VCR zoning, residential would be the principal permitted use.

Additionally, Section 22.64.180 addresses public coastal access and likewise mandates that development is consistent with all public coastal access policies of the LUP, including those cited above. Consistent with LUP Policy C-PA-2, Section 22.64.180(B)(2) 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. Section 22.32.150 provides standards for residential uses in commercial/mixed use areas, and was modified to apply only to commercial development, rather than any type of development.

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. Table 5-3 allows residential uses, such as single-family dwellings, and retail trade uses, such as grocery stores, and service uses, such as banks, as either principally permitted or permitted uses in the C-VCR zoning district, with a footnote specifying that commercial uses shall be the principal permitted use within the village commercial core area of the C-VCR zone and residential shall be a permitted use in all parts of the C-VCR zone.

f) Consistency Analysis

The proposed IP incorporates, by cross-reference, relevant LUP policies applicable to parks, recreation and visitor serving uses and development, as well as public recreational access uses and development. Proposed IP Section 22.64.180 carries out the public coastal access policies by specifying application requirements, such as site plans and establishing public coastal access standards to achieve consistency with LUP coastal access policies and ensure that as a first step, development avoids negatively impacting public recreational access facilities and opportunities and if impacts are unavoidable, that commensurate public access mitigation is applied consistent with the requirements of state and federal law. Similarly, LCP Section 22.64.150(A)(6) ensures that roads, driveways, parking, and sidewalks associated with new development will not adversely impact existing public parking facilities nor the ability of the public to access existing development or existing coastal resource areas.

In response to public comment regarding the need for community centers in residential zoning districts to be owned and operated by non-profits, the proposed IP requires community centers to be designed to enhance public recreational access and visitor-serving opportunities. Thus, regardless of ownership, community centers will serve public recreational access purposes.

Consistent with the County proposed policy language for Policy C-PK-3, IP Sections 22.64.170 (A)(3) and 22.62's use charts establish a commercial core overlay zone via the maps in **Exhibit 2**, within the C-VCR zoning district in which commercial is the principally permitted use and a non-core area in which residential is the principally permitted use. Both uses are allowed throughout the zone; however, the principally permitted use designation will dictate which uses are appealable to the Commission in the core and non-core geographic area. This will allow for a continued mix of residential and commercial uses in the villages while ensuring that commercial visitor-serving development is adequately prioritized in the commercial core area.

As proposed, the IP conforms with and adequately implements the 2016 conditionally certified LUP, as well as newly proposed changes to LUP Policy C-PK-3 regarding public coastal access and recreation.

7. OTHER

Definitions related to Hazards

As compared to the 2016 conditionally certified IP, the proposed IP no longer includes definitions for redevelopment, existing structure and piers/caissons. Since these definitions are integrally related to the environmental hazards portion of the LCP update, County and Commission staff agreed to develop the final language for these definitions as part of the environmental hazards amendments that will be submitted at some future date, and that are required to be certified prior to the LCP update becoming effective for land use planning and coastal permitting purposes. The definition of existing has been modified from “extant on or after February 1, 1973” to “at the time an application is filed with the County,” but it is not applicable in a coastal hazard context.

Legal Lots

The proposed IP also modifies the definition of “legal lot” and “legal lot of record” as compared to the 2016 conditionally certified IP. The County was concerned that the previous versions of these definitions could imply that lots are not considered legal unless they have received a CDP. A “legal lot of record” is a Subdivision Map Act (SMA) term connoting that a lot has affirmatively been determined to be legal under the SMA through the issuance of a certificate of compliance. In the coastal zone, a lot is legal if it was lawfully created under both the Coastal Act and the SMA. However, lots created before enactment of the Coastal Act, and legally created under the SMA with a certificate of compliance, would not have needed a coastal permit. Therefore, the new proposed County definition for “legal lot” which now refers to “legal lot of record” clarifies that a legal lot in the coastal zone is one created legally pursuant to the SMA criteria and pursuant to any coastal permit, if applicable. This definition is also consistent with IP Section 22.70.190(A) which states that “A conditional certificate of compliance issued pursuant to Government Code section 66499.35 shall include a condition that requires *any necessary* [emphasis added] Coastal Permit.”

Footnotes

The proposed IP has also modified language for the footnotes found in Tables 5-4-a, 5-4-b, and Table 5-5. The changes to footnote 6 do not affect the implementation of this footnote as allowance above the lowest end of the density range for projects providing significant public benefits or lots proposed for affordable housing still must demonstrate that the development is consistent with applicable ESHA and hazard policies. Per the County, footnote 7 is not needed and may unnecessarily restrict allowable additions to existing commercial development as most commercial properties in the coastal villages are already developed with floor area ratios above the lowest end of the designated ratio. Further, other LCP policies and standards are in place to ensure that any new commercial development will be consistent with ESHA, hazard and public service requirements.

LCP Map Changes: Land Use Re-designation and Parcel Rezone

A 2018 Commission action (see Moonrise Kingdom LCP amendment, LCP-2-MAR-18-0027-1) corrected a previous mapping error and established consistency with the compatible zoning and land use designations for a split-zoned residential parcel (see **Exhibit 3**). At present, in order for the 2016 certified pending County LCP maps to reflect this change, an amendment to the maps is required for this residential parcel to make the land use and zoning designations consistent with

the actions approved by the Commission in LCP-2-MAR-18-0027-1. The proposed LUP Map change would change the 2016 certified pending land use designation for the subject parcel from open space to Single-Family Land Use. The proposed IP maps would reflect a similar residential zoning of Coastal Single-Family Residential Planned District zoning. This LUP map change is consistent with the Coastal Act because it clarifies the land use designation for this parcel consistent with its existing use and intensity, and is consistent with and adequate to carry out the LUP because it would not lead to development inconsistent with the LCP or result in significant additional development or intensity of use of the site.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Marin County Board of Supervisors conducted public hearings on December 4, 2018 and December 11, 2018, and approved the submittal of the proposed LCP amendments to the California Coastal Commission. As part of their local action on the subject LCP amendments, on December 11, 2018, the Board 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 LCP 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 the Natural Resources Agency as being the functional equivalent of the EIR process required by CEQA (as set by Public Resources Code CEQA Sections 21080.5 and 21080.9). CEQA Section 21080.9 exempts local government from the requirement of preparing an EIR in connection with its activities and approvals necessary for the preparation and adoption of an LCP, including amendments thereto.

The Commission is required, in approving an LCP or LCP amendment submittal, to find that approval of the LCP or LCP amendment, as conditioned, conforms with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted 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.

The County’s proposed LCP amendment consists of both LUP and IP amendments. As discussed herein, the LUP amendment as submitted conforms with, and is adequate to carry out, Chapter 3 of the Coastal Act. The Commission certifies as submitted the proposed LUP amendment and hereby incorporates its findings on Coastal Act and LUP conformity into this CEQA finding as it is set forth in full in California Code of Regulations, § 13540(f). The proposed LUP includes all feasible measures to ensure that significant environmental impacts of new development are minimized to the maximum extent feasible consistent with requirements of the Coastal Act. The LUP amendment includes consideration of all public comments received, including with regard to potential direct and cumulative impacts of the LUP amendment, as well as potential alternatives to it, including the no project alternative. As discussed in the preceding sections, the proposed amendment represents the most environmentally protective alternative in conformity with the policies of the Coastal Act.

The proposed IP as submitted conforms with, and is adequate to carry out, the policies of the certified pending LUP. The proposed IP includes all feasible measures to ensure that such significant environmental impacts of new development are minimized to the maximum extent

feasible consistent with the requirements of the certified pending LUP and the Coastal Act. The proposed IP amendment includes consideration of all public comments received, including with regard to potential direct and cumulative impacts of the proposed IP amendment, as well as potential alternatives to the proposed amendment, including the no project alternative. As discussed in the preceding sections, the proposed amendment represents the most environmentally protective alternative to bring the proposed amendment into conformity with the certified pending LUP consistent with the requirements of the Coastal Act.

The 2016 pending certified IP that will eventually be used in conjunction with the proposed amendments also contains specific requirements that apply to development projects and detailed procedures for applicants to follow in order to obtain a CDP. Thus, future individual projects would require CDPs, 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.

Appendix A – Substantive File Documents

- [2014 Commission conditionally-certified LUP adopted findings.](#) May 15, 2014.
- [2015 Commission staff-recommended IP findings.](#) April 16, 2015.
- [2016 Commission conditionally-certified Amendments 1-3, 6, 7, adopted findings.](#) November 2, 2016
- [CDP 2-MAR-18-0027-1.](#) July 12, 2018.

Appendix B – Staff Contact with Agencies and Groups

- Marin County Community Development Agency (CDA)
- California Cattlemen’s Association
- California Farm Bureau Federation
- East Shore Planning Group (ESPG)
- Environmental Action Committee of West Marin (EAC)
- Marin Agricultural Land Trust (MALT)
- Marin Conservation League Agricultural Land Use Committee
- Marin County Agricultural Commissioner
- Marin County Farm Bureau

- Pacific Legal Foundation (PLF)
- Seadrift Association
- Sierra Club
- University of California Agricultural Extension
- West Marin Sonoma Coastal Advocates