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Date: July 23, 2021
To: Coastal Commissioners and Interested Parties
From: Stephanie Rexing, North Central Coast District Manager
Sara Pfeifer, Coastal Planner
Subject: Marin County Local Coastal Program Update – Informational Item

Marin County has been pursuing a complete Local Coastal Program (LCP) update since the late 2000s, and the Commission certified most of that update in 2018 and 2019. The only component of the update that was not certified at that time was the environmental hazards (EH) provisions (that deal with coastal hazards, including sea level rise), because the County withdrew that EH component from Commission consideration prior to Commission action. To date, however, the 2018/19 certified LCP provisions have not been put into effect in the County's coastal zone because the County structured the update at the time so that the update would not take effect until all portions of the LCP had been updated and certified by the Commission.

When the County withdrew the proposed LCP EH amendments, they intended to take a pause to allow for both County and Commission staffs to have further discussions, including with affected communities and interested parties otherwise, prior to those EH sections being submitted again. The intent was that such EH submittals would follow in short order, and although much staff to staff work on them occurred around that time and since, they remain pending locally. Because the EH sections have not been certified by the Commission (and indeed are still a work in progress at the County level), the remainder of the updated and certified LCP has not been used to govern coastal permitting and planning decisions in the County's coastal zone. Instead, the 1980s era LCP (originally certified by the Commission in May 1982) still governs.

Given the tremendous amount of work that went into updating the LCP, and the increased coastal resource protections associated with it, Commission staff and County staff have discussed the need for the 2018/19 certified LCP components to take effect as soon as possible, even as the EH provisions continue to be developed. Ultimately, it is within the discretion of the Board of Supervisors to determine that the newly certified components can go into effect now.¹ On July 13, 2021, the County Board approved a resolution doing just that (Resolution 2021-52, see Exhibit 1). The practical outcome is

¹ Such action does not require a complementary Commission action inasmuch as it simply puts already certified LCP provisions into effect now instead of at some future date.

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that the already certified LCP EH provisions continue to apply to EH issues, and the rest of the newly certified LCP also applies. While not a perfect outcome, including as the certified EH provisions are in need of updating too, staff is supportive because it will assure better coastal resource protections are realized through implementation of the portions of the updated LCP that have been certified by the Commission, as opposed to reliance on the 1980s era LCP, as has been the case to-date.

Commission staff has received comments from West Marin Environmental Action Committee and the Surfrider Foundation expressing concerns with the County's approach (see correspondence package for this item). Specifically, the comments express concerns that implementing the updated LCP with EH policies from 1982 will result in "inconsistencies and problematic implementation," that continued use of these policies will not enhance the safety of residents, and that it may cause procedural issues in implementation. While staff understands that the most preferable path forward would be to certify and implement the LCP as a whole, including with updated hazard policies, staff also believes that holding back implementation of the rest of the certified pending LCP while EH issues are addressed (and ultimately certified) would be detrimental to the protection of the majority of coastal resources of concern in the County's coastal zone during that time frame. In addition, while the EH policies from 1982 are certainly due for an update, the continued use of them on a short-term basis can continue to assure coastal hazard concerns are addressed in a Coastal Act consistent manner, including as they are Commission certified already. Further, the County carefully excised EH provisions from what the Commission ultimately certified, and it is not expected that the older EH provisions will lead to any sort of significant internal inconsistencies with the updated and certified non-EH LCP provisions. Ultimately, the alternative to the County's recent action is to continue to implement the 1980s era LCP for EH and all other purposes indefinitely. Staff is not supportive of that outcome.

Finally, County and Commission staff are currently actively coordinating on the subject EH provisions, and the County intends to submit an EH update LCP amendment to the Commission within the year. While that time frame and schedule may be a bit overly optimistic, including in light of the need to explore EH solutions with the most affected communities and interested parties, it clearly evinces an intent on behalf of the County to move those EH issues to resolution and completion in the relatively short term. County staff has a ready partner in Commission staff, including as the effort is not starting from scratch, as the significant collaboration from recent years provides an important foundation and starting point that has already jump-started these efforts, and should allow for Commission consideration in a relatively short period of time.

Exhibit 1: Marin County Board Resolution 2021-52