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# W10a

**Prepared November 1, 2016 (for November 2, 2016 hearing)**

**To:** Coastal Commissioners and Interested Persons

**From:** Dan Carl, North Central Coast District Director  
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**Subject: STAFF REPORT ADDENDUM for W10a  
Marin County Local Coastal Program Amendment Number LCP-2-MAR-15-0029-1 (Marin LCP Update).**

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The purpose of this addendum is to modify the staff recommendation for the above-referenced item. In the time since the staff report was distributed on October 21, 2016, staff has received substantial public input (see correspondence attached) requiring both response and recommendation changes. In addition to changes to some of the suggested modifications, staff also adds some clarification to the staff recommendation. Thus, this addendum includes: (1) supplemental findings and responses to the public comments; (2) revisions to the recommended findings and recommended suggested modifications; and (3) the correspondence received as attachments. Importantly, the changes herein do not modify the basic staff recommendation, which is still a recommendation to certify the Marin County LCP update subject to suggested modifications.

Where applicable, text in underline format (or double underline format if they are additional changes) indicates text that is being added, and text in ~~striketrough~~ format (or ~~double striketrough~~ if they are additional changes) indicates text that is being deleted. In all cases, and unless modified by the Commission, the revisions to the recommended findings and suggested modifications set forth below will be incorporated into the Commission's adopted findings. In addition, the supplemental findings and responses to public comment provided by this addendum also will be inserted into the Commission's adopted findings within the section addressing the relevant coastal resource impact.

## **General**

Comments have been received asking that the Commission postpone taking any action at this time, including providing interested parties more time to digest the proposed LCP Update and potential modifications to it, and to allow for a more local hearing. On this point staff notes four things. First, the LUP was the subject of a local public hearing in Inverness in Marin County in May of 2014. That hearing culminated several years of local hearings and Commission staff

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outreach. The Commission unanimously conditionally certified the LUP at that hearing, following substantial public input. The LUP now proposed by the County and as proposed to be modified by staff is mostly the same as was conditionally certified by the Commission in 2014, with the major changes being to the roughly 15-page LUP hazard chapter. Similarly, the IP was the subject of a local public hearing in San Rafael in Marin County in April of 2015. That IP was designed to implement the Commission's conditionally certified LUP, and thus the hearing focused on the same general issue areas as debated in the 2014 hearing. Although the County ultimately withdrew its IP update prior to Commission action, preferring to spend more time addressing their concerns with an eye towards resubmittal, again the Commission benefitted from significant local participation, including many of the same groups who continue to be involved today. Thus, while staff appreciates the need for adequate time to review and comment on the proposal, and the desire for local hearings, staff notes that the core issues remain the same, and that the issues have been debated previously at two local hearings in Marin County.

Second, some commenters have suggested that they have not had adequate time to review the proposed LCP Update and staff's suggested modifications because the staff report came out on October 21, 2016. On this it is important to note that the staff report met all Commission hearing and notice requirements. Perhaps just as importantly, and in addition to the observation above that many of the issues and suggested modifications are the same or similar to before, staff went out of its way to make their suggested modifications public well before that date. In fact, all of the suggested modifications (other than those related to hazards) were provided to County staff on September 8 (nearly two months ago), and were made available to the general public (including via the County's email distribution list that goes to some 1,400 parties) on September 23 (nearly 6 weeks ago), well in advance of the hearing for this item. In addition, the hazard related mods were made available to the County on October 4 (almost a month ago), and to the general public on October 13, again well in advance of the hearing. Thus, the proposed LCP and staff's suggested modifications to it have been available for many weeks, almost six weeks prior to the hearing for the vast majority of the mods, and reflect many of the same themes as were previously conditionally certified by the Commission in 2014 and suggested for certification by staff in 2015.

Third, the staff report length has been cited as a confounding review factor. In addition to everything discussed above, it is important to note that the vast majority of the 2,825-page staff report is exhibits (2,713 pages, or 96%), with the largest exhibits being those associated with the 2014 and 2015 hearings (94-pages and 208-pages respectively), the County's submittal (1,622 pages, or 57%), and with the suggested modifications in strike through and underline form (379-pages, or 13%). The written portion of the staff report is 112 pages. Although staff agrees that this is a lot of material, the overwhelming majority is materials from past hearings that is there for reference purposes, and nearly 60% of the report are materials from the County's revised submittal.

And finally, certain commenters suggest that staff has waited until the last minute to engage on the issues and to deliver its own version of what should happen with the LCP Update, which has been characterized as both a 'late hit' and inappropriate. Staff notes that it has actively engaged not only County staff but a variety of interested parties for many years, since well before the County originally acted on its initial LCP Update at the local level, as well as before the prior

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Commission hearings. Staff has continued that involvement even after the County withdrew its proposal in 2015, including two comment letters providing input as the County reconsidered its proposal locally in 2015 and 2016. Since the 2015 County withdrawal, staff has continued its active engagement on the issues presented, most notably in terms of significant involvement and comments with respect to the County's revised approach to coastal hazards 2015 (see also below). Staff has participated in literally dozens of meetings with the County and others, and innumerable phone conversations and emails, all leading to this LCP Update hearing. Staff notes that such active participation has led to a series of compromises and changes in the staff position, including as reflected in this addendum. In short, staff has been an active participant, and has raised all of the same issues for many years, including those related to hazards and the Commission's own version of the conditionally certified LUP from 2014 which provided a touchstone for staff. That there remain disagreements is not a reflection of staff's participation in the process so much as a reflection on both the wide range of views on the topics, and the difficulty of the decisions presented, particularly those related to coastal hazards and sea level rise.

This addendum focuses on coastal hazards and agricultural issues, including because these are the issues where most comments were focused. It also addresses issues related to biological resources, views, CDP procedures, and others (related to community centers, C-VCR, land divisions, etc.). Importantly, staff notes two things. First, with respect to coastal hazards, there are more similarities than differences between the County's proposed policies and staff's suggested modifications, including with respect to *both* adding 3 feet in elevation situations to respond to sea level rise in low-lying shoreline areas, and *both* requiring 100-year setbacks for blufftop development. In addition to these clear similarities, most of staff's suggestions otherwise simply amplify and refine County proposals, such as those related to identifying and avoiding hazards where feasible, requiring assumptions of risk, and accounting for future adaptation planning through LCP amendments. Comments in many cases – including those received from the County November 1<sup>st</sup> – miss these similarities and this addendum attempts to clarify such issues, including through a comparison chart attached (see Exhibit 3).

At the same time, there are clear differences in the two hazards approaches, mainly focused on the concept of redevelopment, allowable armoring (i.e., staff's suggestions don't allow armoring to be countenanced in CDP applications, and require its removal under certain circumstances in the future), and triggers for removal of structures under very narrow criteria in the future (e.g., when new development that is not allowed armoring is endangered, when development encroaches onto public trust areas, etc.). These differences are clear, and reflect a different approach to the vexing coastal hazards issues affecting Marin's shoreline today and in the future, including in light of rising sea level. Staff's approach in these areas of difference has been to focus on the concepts in the approach that the Commission conditionally certified in the Marin LUP in 2014 as a touchstone, as well as the Commission's approach more generally in its regulatory and planning program statewide, where such tools have become more commonplace in recent years. Staff believes that it has offered suggested hazards modifications that appropriately build upon the County's proposed framework while recognizing the difficult decisions facing Marin.

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Second, with respect to agriculture, again, staff notes that there are more similarities in approach than there are differences. It appears that the issue boils down to different ways of considering ongoing agricultural operations, and what might require a permit. As is detailed below, staff believes the approach it is presenting is consistent with Commission direction, including as evidenced by the Commission's agricultural workshop and recent LCP work, and provides an exemption for legally established ongoing agricultural activities. Staff believes the vast majority of agricultural activities will fall into this category and not require any kind of CDP (including for changing crops, adding accessory structures, etc.). For activities that don't fall into that category, like converting grazing land to row crops, the County's categorical exclusion provides a broad exclusion from CDP requirements for most agriculturally-related development that would mean that most of those activities would also not require a CDP. For those activities not covered by the exclusion, staff is proposing to allow Marin County to implement a de minimis waiver provision akin to the process the Commission applies. This is unusual as there aren't any LCPs with such provisions, and it is an attempt by staff to provide a very powerful streamlining tool in Marin, including for agricultural activities. If CDPs are not waived, then staff is also providing a minor development tool to also allow for streamlining. A CDP flowchart is provided as an exhibit to help show how this would work (see Exhibit 5). In short, and as detailed further in the discussion below, staff believes it has provided an appropriate framework that addresses the County's and others issues in a way that respects resource protection and agriculture as framed by the permitting and other requirements of the Coastal Act.

### **Coastal Hazards**

As alluded to above, many commenters have suggested that staff has not participated nor inputted during the County's deliberations related to coastal hazards, particularly since County withdrawal in 2015. However, this is simply factually inaccurate. In fact, Commission and County staff have collaborated on the development of updated LCP hazards policies for over five years. The County's first submitted its LCP update for Coastal Commission consideration in 2013. In 2013, while Commission staff considered the County's submittal, the Coastal Commission and the Ocean Protection Council awarded a first-round LCP Assistance grant to the County to partially fund and support the County's effort to conduct a sea level rise vulnerability assessment, adaptation report and revise its existing LCP hazards policies based on the findings of those analyses. Thus, at the County's request, the 2014 Commission conditionally certified LUP hazard policies included a caveat that acknowledged that the LCP would be updated in 2017 in light of the work conducted under the LCP Assistance grant.

Subsequent to the Commission's 2014 unanimous certification of the County's updated LUP hazards policies, Commission staff actively participated in the County's CCC- and OPC-grant funded "Collaboration: Sea-level Marin Adaptation Response Team" (C-SMART) process. Specifically, Commission staff attended all major community workshops, served on the technical advisory committee and held monthly coordination meetings with County staff (see Exhibit 1 attached for a summary of the Commission staff coordination and involvement throughout the C-SMART process). Staff also provided detailed comments on the County's draft Vulnerability Assessment and draft Adaptation Report. As County staff developed draft hazards policies as a deliverable of their grant, staff provided input on numerous occasions, including in meetings starting on December 15, 2015, on January 20, March 1, and March 8 in 2016 and in a detailed comment letter, in advance of the County Board's approval of the hazards policies on April 19,

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2016 (see Exhibit 2 attached for recommendations to the County's hazard policies made by Staff on March 23, 2016). Staff's recommendations made to the County throughout the process have been consistent with the Sea Level Rise Policy Guidance Document adopted by the Commission on August 12, 2015, and included recommendations on the appropriate timeframe for analysis in hazardous areas, the definition of redevelopment, the exclusion of existing shoreline protective devices in the hazard analysis, permit conditions including future removal of newly developed structures, and the need to address sea level rise impacts on other coastal resources as new development is considered. Critically, many of these recommendations emanated directly from the hazard policies conditionally certified by the Commission unanimously in 2014 (including in terms of limitations on elevation, setback requirements, and requiring armoring removal in certain circumstances), which provided the basic framework guiding staff.

Ultimately, however, the final hazards policies adopted by the Board of Supervisors and submitted for Commission consideration did not include the majority of staff's recommendations, and, as submitted by the County, the hazard policies differ in significant ways from the LUP hazard policies unanimously certified by the Commission in 2014. These differences are perhaps most pronounced in terms of the County's elimination of the Commission-certified concepts associated with defining coastal redevelopment and armoring. Many questions were posed to the County by Commission staff and members of the public throughout the LCP amendment filing process, specifically related to the application of LUP policies which referred to sea level rise maps that were not submitted, visual resource assessments that were based on potential implications of the missing sea level rise maps, and other clarifying information (such as questioning why the County was expanding compliance with the County floodplain ordinance to development that did not meet the FEMA threshold). Commission and County staff communicated on numerous occasions to resolve issues throughout the filing process, with the County staff's final submission of draft sea level rise maps on July 1, 2016. After the County's LCP amendment was filed, the Commission and County staff continued to communicate on draft suggested modifications and to identify major areas of disagreement in an effort to resolve those disagreements. The final Commission staff suggested modifications published on October 21, 2016 are a result of this Commission and County staff coordination throughout the C-SMART process that has taken place over the past few years, the Commission adopted Sea Level Rise Policy guidance, and the Commission's most recent approach to addressing sea level rise in CDP actions and LCP certification actions to date. These modifications reflect and are consistent with that history, and should hardly come as a surprise to those who were participating.

Numerous public comments received, including from the County itself, have requested that the Commission deny the staff-suggested modifications to hazards policies, and instead adopt the hazards policies as submitted by the County. Commission staff continues to recommend that the Commission deny the LCP as submitted and adopt the suggested modifications for several reasons. First, for the most part, staff's suggested modification language recommends the same evaluation and design requirements proposed by the County for development in areas subject to hazards as discussed further below. Staff's recommended modifications mostly expand on the County's proposed requirements to ensure all hazardous areas are accurately identified and depicted, that impacts to coastal resources are fully evaluated in light of future sea level rise, that property owners assume the risks of performing new development in areas subject to hazards,

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and that triggers are put in place so that when newly approved private residential development causes impacts to surrounding areas or public lands, those adverse coastal resource impacts are mitigated by removal of the residential development. In other words, staff has attempted to help refine and build upon what the County has proposed, including to provide enhanced clarity and specificity, particularly as it relates to avoiding hazardous areas in the first place, and ensuring that the public is not made to bear the brunt of impacts to shoreline-area coastal resources should such development eventually lead to problems, such as encroaching on beach areas and the public trust.

In fact, without the suggested modifications, the County's LCP hazards policies are not reflective of the concepts embedded in the Commission's adopted Sea Level Rise Policy Guidance, are not consistent with the Coastal Act, and would weaken not only the 2014 Commission-certified LUP hazards policies, but would also weaken the existing certified County LCP hazards policies. For example, under the existing certified Marin County LCP, County permit approvals for new development projects located on shorefront parcels within Stinson Beach are currently required to be accompanied by findings as well as appropriate mitigation conditions, establishing the project's design and location, minimizing the need for future shoreline protective works, protecting existing sandy beach habitat, providing a buffer area between public and private use areas, protecting the existing scenic and recreational character of the beach and maintaining the public existing rights of access to, along and use of beach dry sand areas. In contrast, proposed Policy C-EH-3 goes as far as including a statement that elevation projects shall be facilitated by application of CDP exemptions and exclusions, and such projects "shall be deemed sufficient to comply with coastal hazard, public view, community character, and related provisions of the LCP". In other words, the proposed policies are designed to facilitate shoreline development through lesser processing and review, and essentially identify them as consistent by definition through such proposed LUP language without actually requiring an analysis. In short, in addition to the Commission-certified LUP from 2014, many of the concepts embodied in staff's suggested modifications derive from the existing certified County LCP. See Exhibit 3 for a chart that illustrates the differences between the existing LCP hazard policies as compared to both the County's proposal and staff's suggested modifications (which themselves emanate from the Commission's 2014 LUP hazards policies). As you can see from the chart, the County's proposal actually weakens the LCP in certain key areas, including defining areas subject to hazards, prioritizing avoidance of hazards, height limitations and the protection of visual resources, and maintaining the public right of access to and use of beach dry sand areas.

In addition, the County concurrently developed and considered the grant-funded Adaptation Report as well as developed and considered LCP hazards policies, and the County's submitted hazards policies do not fully incorporate or reflect the discussion of preferred adaptation strategies that occurred with stakeholders or the preliminary findings of the submitted Adaptation Report. In fact, further adaptation planning would have preferably occurred prior to submittal of new hazards policies, but those efforts are still ongoing. Thus, both the submitted policies and the suggested modifications track and provide for such efforts, including through an LCP amendment in ten years. The difference is that the suggested modifications include a series of specific action items, including sandy beach management plans that can provide additional standards to address protection of sandy beaches in Marin, including through potential

application of zoning overlays and an analysis of beach widths necessary to ensure the continuation of sandy beaches in Marin County.

As a result, Commission staff suggested modifications add findings from Marin's preliminary Adaptation Report to be incorporated into the County LCP hazards policies, as well as reinsert key elements of the 2014 Commission conditionally-certified LUP hazards policies, the existing Marin LCP policies, and direction from the Sea Level Rise Policy guidance as described in further detail below.

***Identifying Coastal Hazards***

The County has asserted that the staff suggested modifications define areas potentially subject to hazards too broadly. Coastal Act Section 30253 requires new development to minimize risks in high geologic, flood, and fire areas, and thus the LCP needs to be flexible enough to allow identification of such hazards at the time of consideration of a permit application (not only by maps), and comprehensive enough to clearly identify the types of hazards in question. As proposed by the County, the way the majority of policies are structured implies that the only hazards to be avoided and addressed under these policies are those that are mapped by the County at the time of coastal permit application. Although hazards maps can be a great reference for hazards identification, there is no guarantee that the County hazards maps are complete, including whether they have been recently updated to reflect the best known science and information. This is a particularly critical issue for sea level rise, since assumptions and projections for future inundation are continuously being refined and amended to reflect new data. As a result of the reference to current mapped hazards, the proposed LCP will not necessarily capture all cases where hazards would need to be addressed in a future CDP context, and thus suggested modifications ensure that it is the nature of the hazard, not whether it is mapped, that define when a site may be subject to potential hazards.

On this point staff notes that the concept of identifying areas subject to hazards by way of maps *and* descriptions of hazardous areas originates from the existing certified County LCP. Marin County LUP Unit I policies on shoreline protection and hazard areas, Unit II LUP policies on new development and land use, and Section 22.56.130I of the existing County IP identify areas potentially subject to hazards as those located in the "Alquist Priolo" earthquake hazard zones, within 300 feet of the mean high tide of the sea, parcels with slopes averaging over 35 percent, all lots within the Seadrift sandspit, including the Patios, Calles and Seadrift Subdivision, and areas depicted on the Unit I LCP geologic hazards maps including areas subject to tsunami runup, landslides, liquefaction, beach or bluff erosion, or flood hazard areas. The County submitted LCP update more narrowly defines areas subject to hazards and excludes some of these relevant areas that would currently be considered hazardous under the existing County LCP.

Finally, the County's submittal relies on draft sea level rise maps that were not adopted by the County Board of Supervisors. Even though cited in the County's proposed policies, the "Potential Sea Level Rise Maps" were prepared *after* the County Board adopted the proposed policies. Thus, as identified in the staff report, it is not clear that this map can even be relied upon in an LCP policy framework.

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### ***Timeframe for Hazards Analysis***

Some public commenters are opposed to designing new development to be safe from a high projection of sea level rise for 100 years and would prefer the approach outlined in the County's submitted policies. Other commenters have suggested that the timeframe of 100 years should be added to C-EH-2, specifying that coastal resources impacts should be avoided and minimized over that timeframe. To clarify for the record, both the County and Commission staff versions suggest a 100-year timeframe for blufftop development, and staff's suggested modifications require setbacks be evaluated for 100 years along the shoreline, but both the County and staff's versions rely on elevation for 3 years above the 100-year flood event to account for sea level rise. In other words, *staff and the County rely on the same amount of elevation to address coastal flooding, including due to sea level rise* (again, see the comparison chart in Exhibit 3). Both staff and the County arrived at the same point for different reasons, but both versions provide for a design framework that, under best available science, represents designing for a time period of roughly between 45 to 75 years. Therefore, both staff's suggested modifications and the County proposed policies recognize both the uncertainty associated with future sea level rise, and the desire of residents to not over-elevate their homes. At the same time, staff believes that such elevation only makes sense as long as mitigation measures are included that will provide for protection of coastal resources over time under certain circumstances (such as the encroaching onto the public trust, including as public trust areas migrate).

### ***Hazards Avoidance and Setback Requirements***

Certain comments have raised concerns regarding the prioritization of hazard avoidance through alterations in design and siting, and have expressed the inability of many homeowners to meet setback requirements due to the nature of shoreline development in Marin. However, these comments appear to misunderstand the suggested modifications. Staff acknowledges the uniqueness of the existing development located along the Marin shoreline and the challenge of siting new development along that shoreline. Staff also acknowledges that avoidance of hazards through siting and design, including incorporating setbacks, is essential to the minimization of hazards required by Coastal Act Section 30253 and the certified LCP, and is consistent with the Commission and County's current permit practice. At the same time, staff's modifications recognize that appropriate setbacks may not be possible in low-lying areas, and allows for elevation in such circumstances, as discussed above.

In addition, the concept of hazard avoidance originates from the existing certified LCP, which recommends that areas not suited to development (because of known soil, geologic, flood, erosion or other hazards that cannot be eliminated or substantially reduced) shall remain in open space. Further, LUP Unit I downzoned properties along Shoreline Highway in Stinson Beach in order to minimize flood hazards and the adverse impacts on Easkoot Creek, and prohibited development of permanent structures and significant improvements within the 100-year floodplain of Easkoot Creek (see Exhibit 4 for the County's map of the Easkoot Creek floodplain). For example, in a recent appeal of Marin's County approval of the Hjorth residence (A-2-MAR-15-0074), the Commission agreed with the County's determination that the development could only be approved in the floodplain of Easkoot Creek if denial of the proposed project based on the application of Marin LCP policies would constitute a taking without just compensation. In that case, the County's approval required reduction of the home size and incorporated setbacks from flood areas to minimize hazard risk and potential impacts to surrounding areas for development that would have otherwise been prohibited. Thus, future



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development proposed to occur in the floodplain of Easkoot Creek (including redevelopment over the 50% threshold described below) would be required to meet this test under either the existing or the proposed to be certified LCP.

Further, the existing certified LCP also requires setbacks from dunes, beaches, and wetlands to protect these coastal resources and public access and recreational opportunities and limits development that can occur in these sensitive areas. For example, the Unit II LUP prohibits development of the existing lots west of the paper street Mira Vista, in order to preserve the natural sand dune formation and sandy beach habitat, and to protect potential prescriptive rights over the dry sand areas west of the Patios. Additionally, the existing certified IP requires development of shorefront lots within the Stinson Beach and Seadrift area to assure preservation of the existing sand dune formations in order to protect environmentally sensitive dune habitat, vegetation and to maintain the natural protection from wave run-up which such natural dunes provide. Development approvals for new projects located along such shorefront parcels, under the existing certified LCP, are required to be accompanied by findings, including mitigation conditions, establishing the project's design and location, minimizing the need for shoreline protective works, protecting sandy beach habitat, providing a buffer area between public and private use areas, protecting the scenic and recreational character of the beach and maintaining the public rights of access to, along and use of beach dry sand areas. In short, many of the concepts included in the Commission staff's suggested modifications are similar to *existing* LCP protections which were not brought forward in the County's proposal. Thus, setbacks and development modifications are included to be considered by applicants as the first option for avoiding and minimizing coastal hazard risks. Where setbacks and development modifications are not possible, new development and/or substantial repairs to existing homes could be accomplished by applicants through proposing elevation, which is specifically allowed for in shoreline areas per the County's submitted and Commission staff modified hazard policies. Commission suggested modifications to C-EH-5 specify that setbacks and design reduction shall be considered unless the proposed project consists solely of raising an existing structure the minimum amount necessary to meet flood elevation requirements for flood insurance purposes, and if there is inadequate space to feasibly meet such siting and design requirements, development shall be sited on the portion of the site that best meets these requirements, and floodproofed and/or elevated via pier/caisson foundations.

Finally, and as further described on pages 28-29 of the staff report, Coastal Act Section 30253 requires that new development minimize risks to life and property in areas subject to hazards. The proposed updated LUP takes a slightly different approach, and focuses on "safety", stating in proposed Policy C-EH-1 ("Safety of New Development") that development is to minimize risk to life and to be "safe from" hazards. While such safety is a legitimate concern, the proposed policy framework makes this essentially the LCP's hazards objective, from which the remainder of the proposed LUP hazard policies flow. However, the proposed predominate focus on safety is different from that contained within Section 30253 of the Coastal Act. Although that section of the Act requires that risks to life and property be minimized in new development, and requires that structural stability and integrity be assured, it also prohibits development that would create or contribute significantly to erosion, geologic stability, or destruction of the site or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. As proposed, the County's proposed Policy C-EH-1 is missing this critical Section 30253 limitation, and the proposed updated policy's focus on safety without any

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caveats could be used to justify development that could cause or contribute significantly to erosion, geologic stability or destruction of the site and its natural resources. As such, proposed Policy C-EH-1 and related measures do not adequately account for this issue, including in light of redevelopment projects, and thus staff's suggested modifications are necessary.

### ***Redevelopment***

As described on page 30 of the staff report, the concept of redevelopment is firmly grounded in the Coastal Commission's adopted administrative regulations and the Coastal Act itself. Specifically, the regulations identify the replacement of 50% or more (of a residence, seawall, revetment, etc.) as the threshold for development to no longer constitute repair and maintenance development but rather replacement development, but, the Commission's administrative regulations do not define what exactly is meant by "50%". And that lack of definition has made it difficult in past cases to clearly articulate and identify when the threshold has been exceeded. In light of these difficulties, the Commission has attempted to provide clarity on the 50% threshold through a more specific redevelopment framework in order to best achieve Coastal Act objectives and policy consistency. Thus, the suggested definition of redevelopment contained in the Commission staff modifications provides detail on calculating 50%, reflecting Coastal Act Section 30610(d), which requires CDPs for repair and maintenance activities that result in an addition, enlargement, or expansion of the object of those repair and maintenance activities.

The existing certified LCP requires that the geologic hazard policies apply to new development excluding improvements to existing structures that would not result in an increase of 50% or more of internal floor area, and only exempts repair and maintenance activities that do not result in an addition to or enlargement of the object and, for development outside the appeal jurisdiction, that would result in 10 % increase in internal floor area or an additional story. Further, the certified LCP requires that expansion or enlargement of nonconforming or new structures need to conform to the certified LCP. Considering that elevation would qualify as an expansion and enlargement, the certified LCP would require conformance with all existing policies including setbacks and avoidance as described earlier. The County's proposal would weaken the LCP hazard policies in this respect.

In addition, consistent with recommendations set forth in the Commission's Adopted Sea Level Rise Policy Guidance, new Policy C-EH-4 specifies that changes be calculated cumulatively from the effective date of the Coastal Act (i.e., January 1, 1977), so that Coastal Act (and LCP) objectives are realized for coastal redevelopment as envisioned by Coastal Act Section 30610(d). The effective date of the Coastal Act also aligns with the approach that the Commission recently identified for when a structure is existing for the purposes of allowing shoreline protective devices per Coastal Act Section 30235. If the dates are different, then it may be argued that potential redevelopment over that time frame (e.g., turning a one-bedroom cottage in 1977 into a 3-bedroom two-story house in 2016) does not count towards the evaluation of existing structures for purposes of shoreline armoring, frustrating those related policies in the process.

Public comment has expressed concern that the redevelopment as discussed above would prevent preservation of existing homes in light of sea level rise and other coastal hazards risks. However, as described above, if facing sea level rise and other hazard risks, existing homes are allowed to

be elevated when setbacks are not possible as long as sufficient mitigation measures are incorporated. Thus, existing homes can be preserved.

***Coastal Resource Impacts***

The County’s submitted hazards policies as proposed do not explicitly require new development to adhere to other LUP policies, including those that require the protection of scenic views and community character. Although such LUP consistency is implied in many LCP cases without being explicitly stated, and could apply here, the County’s proposed Policy C-EH-3 makes explicit that that is not the case with elevation. In fact, proposed Policy C-EH-3 includes a statement that elevation projects shall be facilitated by application of CDP exemptions and exclusions, and such projects “shall be deemed sufficient to comply with coastal hazard, public view, community character, and related provisions of the LCP”. In other words, the proposed updated policies are designed to facilitate elevation of private residential property through lesser processing and review, and essentially identify them as being consistent by definition through such proposed LUP language without actually requiring any analysis of the issues of public view, community character or related LCP provisions. Policy C-EH-3 is inappropriate in light of the significant policy and coastal resource issues engendered in such analytic reviews, and could allow for adverse impacts not allowed by the Coastal Act. Further, these proposed policies would weaken the existing certified LCP, which currently requires new development to be designed and sited so as not to impair or obstruct existing coastal views from Highway 1 or Panoramic Highway and sited so as not to obstruct significant views as seen from public viewing places. Exceptions to height limits are only permitted, under the existing certified LCP, where the topography, vegetation, or character of existing development is such that a higher structure would not create additional interference with coastal views either to, along, or from the water. In contrast to the proposed policies, Commission staff suggested modifications undoes the de facto lesser processing for elevation projects, and undoes the proposed language that would have certain such projects deemed LCP consistent (see staff report page 33).

***Mitigation Measures***

As described above, staff believes that the County’s proposal to use 100 years as a measure of safety for blufftop development and 100-year flood levels with an additional 3 feet for sea level rise and freeboard for shoreline development is consistent with the Coastal Act only so far as commensurate “end of life” requirements are put in place to address coastal resource impacts over time. As described by numerous commenters, estimating future impacts from coastal hazards, especially in light of sea level rise, is an exercise fraught with uncertainty. There is always the possibility that hazards issues will lead to existing development being endangered sooner than anticipated. Without clearly defined triggers to address future coastal resource impacts, such impacts will accrue to the public.

In addition, to ensure that coastal development permits appropriately address the “end of life” of such newly proposed development, it is important for the LUP to include provisions for addressing such situations. Namely, because the Coastal Act and the proposed LCP do not allow new development to rely on shoreline altering development to maintain stability and structural integrity, this must be assured when such development is endangered by coastal hazards, including if this occurs earlier than anticipated. Thus, the LCP update must specify that such new development must be relocated and/or removed at that time.

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To a certain extent, the County proposed hazard policies are designed to put property owners of newly approved development on notice of uncertain future risks per C-EH-2 (which requires a recordation of an assumption and disclosure of risk including that future shoreline protective devices are prohibited, that public funds may not be available to remedy damage to public infrastructure from sea level rise and that the County Housing Code prohibits occupancy of structures where sewage and water systems are inoperable, and disclosing the risk of 100 year sea level rise). However, the proposed County policies do not dictate what needs to happen if those risks are realized. Without policies requiring removal of the new development newly approved by the County in these risk areas, the shoreline could be potentially left with abandoned, damaged homes impacting public access and recreational opportunities. This concept of the waiver of liability and the assumption of risk is also included in the certified LCP. At the time of LCP certification, the County did not encourage new residential development of parcels characterized by one or more geologic hazards, and for coastal permit approvals of development on such parcels, the existing certified IP requires applicants to execute and record a waiver of public liability holding the County, other governmental agencies and the public harmless because of loss experienced by geologic activities.

Certain commenters have raised questions about not being able to repair their residences if red-tagged. However, the intent of the policy was to ensure that, if red-tagged, the measures to correct the red tag would not include armoring or additional elevation (i.e., past the initial elevation that would be allowed by both the County's proposed elevation policies and staffs suggested elevation policies). Unfortunately, this qualification was not clearly stated, so changes are necessary (see just below).

In addition, some comments have expressed concerns regarding existing structures that are currently located on piers that extend over public trust lands in Bolinas and Tomales Bay and whether or not the staff-recommended triggers for removal associated with public trust would prohibit these structure owners from repairing and maintaining their homes or proposing elevation in response to coastal hazards. Staff notes that the policies were developed with low-lying shoreline areas in mind, and that corrections are necessary to address the particular situation associated with these open coastal water areas. The changes mean that development legally over the water now would be allowed to continue, and that particular removal trigger would not apply (see below).

Thus, staff makes the following changes to its suggested modifications associated with LUP Policy C-EH-11 (see page 2011 of Exhibit 12) and IP Section 22.64.060(C) (see page 2203 of Exhibit 13):

*C-EH-11 Mitigation Measures Required for Development Subject to Hazards. Development in shoreline, bluff face, and blufftop areas that are subject to hazards shall comply with all of the following, including through application of conditions of approval that provide for same:*

*1. Development Duration. Development shall be removed and the affected area restored to a natural condition if: (a) the County declares the development unsafe for occupancy and/or use and the development requires new and/or augmented shoreline protective*

devices (including additional elevation for structures already elevated pursuant to C-EH-5) to be made safe for occupancy and/or use; (b) the development requires new and/or augmented shoreline protective devices (including additional elevation for structures already elevated pursuant to C-EH-5); (c) the development encroaches onto public trust land (including as the public trust migrates) (other than legally established development that is as of the date of LUP certification already elevated above public trust lands in Bolinas and Tomales Bay); (d) access and utilities are no longer available to serve the development; (e) the blufftop edge erodes to the minimum setback line established via Policy C-EH-6; and/or (f) required by subsequent adaptation planning (see Policy C-EH-17). Bonding sufficient to cover such removal and restoration shall be provided. ...

22.64.060 Environmental Hazards

C. Mitigation Measures Required for Development Subject to Hazards. Development in shoreline, bluff face, and blufftop areas that are subject to hazards shall comply with all of the following, including through application of conditions of approval that provide for same:

1. Development Duration. Development shall be removed and the affected area restored to a natural condition if: (a) the County declares the development unsafe for occupancy and/or use and the development requires new and/or augmented shoreline protective devices (including additional elevation for structures already elevated pursuant to C-EH-5) to be made safe for occupancy and/or use; (b) the development requires new and/or augmented shoreline protective devices (including additional elevation for structures already elevated pursuant to C-EH-5); (c) the development encroaches onto public trust land (including as the public trust migrates) (other than legally established development that is as of the date of LUP certification already elevated above public trust lands in Bolinas and Tomales Bay); (d) access and utilities are no longer available to serve the development; (e) the blufftop edge erodes to the minimum setback line established via Policy C-EH-6; and/or (f) required by subsequent adaptation planning (see Policy C-EH-17). Bonding sufficient to cover such removal and restoration shall be provided.

**Seadrift**

Public comments have expressed concern over the impact of the updated LCP hazard policies on the Seadrift Settlement Agreement. The Seadrift riprap revetment is permitted pursuant to the CDP A-1-MAR-87-235-A and the Settlement Agreement to protect existing residences, newly constructed residences and redeveloped residences. If the Seadrift Association were to propose substantial change to the approved revetment, the Association would be required to obtain an amendment to the CDP which authorized the original revetment. Even with the revetment in place, a waiver of liability might still be required, acknowledging that the owner assumes the risk of building a residence in a hazardous area where FEMA acknowledges hazards by offering flood insurance if one complies with their building specifications.

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### ***Coastal Hazards Conclusion***

In short, while the proposed LCP represents a comprehensive update to the existing certified LCP's hazards policies from 1982, it also undoes major existing LCP resource protection provisions, and it differs in significant ways from the LUP hazard policies unanimously certified by the Commission in 2014 (again, see the chart in Exhibit 4). Thus, staff is recommending a series of modifications to the County proposed hazard policies to address these core problems. Although characterized by some commenters as far-reaching, the overwhelming majority of these modifications are intended to reapply the key core standards that the Commission previously certified in 2014, and to ensure that *existing* LCP protections are not lost, including as identified above. Importantly, staff's suggested modifications also track the County's proposal in important ways, including allowing for elevation in low-lying areas subject to 100-year flood estimates plus an additional 3 feet, and relying on additional adaptation planning that is ongoing to help refine and enhance the LCP hazard provisions within 10 years. At the same time, there are important differences between the County's proposal and staff's suggested modifications, critically in terms of identifying redevelopment and potential end of life removal triggers. These types of removal triggers have become a more common approach for the Commission in its permitting program that recognizes that there is some inherent uncertainty relative to coastal hazards, and puts the onus on the private property owners to internalize some of the true costs of development in hazardous areas as opposed to forcing the public to contend with future coastal resource impacts, thus better protecting core public benefits such as those associated with continued sandy beach use.

### **Agriculture**

The primary intent of the LCP's agriculture policies is to protect agricultural land, continued agricultural uses, family farming, and the agricultural economy. It seeks to do so by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, providing for diversity in agricultural development, facilitating multi-generational operation and succession, and prohibiting uses that are incompatible with long-term agricultural production or the rural character of the coastal zone. The protection of both agricultural production and the agricultural economy, including in relation to allowing uses that are incidental to and supportive of agricultural production, are clear objectives for the LCP agriculture policies.

### ***Ongoing Agriculture***

Since 1982, the County's certified LCP has included agricultural production as the principal permitted use in the Coastal Agricultural Production Zone (C-APZ). 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, required County-issued coastal permits. The Commission staff suggested modifications do not "establish" a new coastal permitting requirement for agricultural production in Marin County. Rather, such a permit requirement has existed in the C-APZ since 1982 when the Commission certified the County's existing LCP and prior to LCP certification through Commission regulatory action

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Proposed IP Section 22.68.030 (Coastal Permit Required) states that a CDP is required for all development in the coastal zone, and provides a list of activities that do or do not fall under the definition of development. Section 30106 of the Coastal Act states that the removal or harvesting of major vegetation for agricultural purposes is not development, but that any change in the intensity of use of land or water is development, as is grading. The County has offered an interpretation of the definition of development prescribed by the Coastal Act such that “development” would exclude any routine agricultural activities which are not expanded into ESHA, ESHA buffers or never before used areas.

As proposed, the IP Update is inconsistent with Section 30106 including because it does not differentiate between the different types of agricultural activities (including converting grazing land to row crop use such as viticulture) that independently constitute new development because the proposed new agricultural activity is a change in the intensity of use of land and/or requires grading; and the IP Update does not require that the ongoing agricultural activities be legally established. Suggested modifications are therefore required that do not eliminate a permit requirement for either new development agricultural activities that independently require a CDP because they involve grading or a change in intensity of use or agricultural activities that were not legally established.

The Commission has grappled with the question of what types of agricultural activities constitutes development numerous times, and on March 19, 1981, the Commission issued a policy statement clarifying that it had jurisdiction over *expansion* of agricultural activities located in areas containing major vegetation. The Commission determined that expansion of agricultural uses into areas of native vegetation constitutes a “change in the intensity of the use of land” and is therefore development under the Coastal Act. New and expanded agriculture is also a change in the intensity of the use of land and water for a variety of additional reasons, including because preparing land for new agricultural use requires clearing the land of existing vegetation, and growing crops and livestock requires a significant amount of additional water, unlike the land’s water needs in its natural state. Thus, removal of major vegetation in association with new and expanded agricultural operations constitutes new development, requires a CDP, so such activities cannot be exempted from CDP requirements in the LCP. In addition, because the Coastal Act and LCP definitions of development do not exclude *grading* for agricultural purposes (as they do for the *removal of major vegetation* for agricultural purposes), all grading requires a CDP, unless it is otherwise exempt or excluded. To the extent the rotational crop farming and/or grazing has been part of a regular pattern of agricultural practices, it is not considered to be a change in intensity of use of the land despite the fact that the grazing and crop growing are rotationally occurring on different plots of land.

Further, in recognition of the fact that agricultural activities, including cattle grazing, have been occurring on properties in Marin for decades, the Commission’s definition acknowledges that determinations of ongoing activities may be supported with information from the Marin County Department of Agriculture, Weights and Measures. In short, the definition proffered by the Commission recognizes the unique attributes of farming in Marin, and responds appropriately, including to public comments received on this topic. It also respects both the Coastal Act and the Commission’s guidance related to new development requirements over the years.

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Even if an agricultural development is found to require a CDP, the LCP offers many tools make the process of obtaining approval an easy process for the agricultural community. The LCP streamlines the permitting process for the agricultural community as demonstrated in attached Exhibit 5. In addition, much agricultural development is excluded from permit requirements in certain geographic locations. These exclusions apply to specified parcels zoned Agriculture at the time of the exclusion orders' adoption that are located outside the areas prohibited by Coastal Act section 30610.5(b) as well as 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 approved April 1981 zoning). 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. Per Categorical Exclusion Order E-81-2, agriculturally related development is defined to include barns, storage, equipment and other necessary buildings; dairy pollution project including collection, holding and disposal facilities; storage tanks and water distribution lines utilized for on-site, agriculturally-related activities; water impoundment projects not to exceed 10 acre feet; electric utility lines; new fencing for farm or ranch purposes, provided no solid fence designs are used.

Thus, on page 15 of the staff report, the following statement will be revised as follows:

*The exclusion applies throughout the entire coastal zone, except for the area between the sea and first public road paralleling the sea, or a half-mile inland from the sea, whichever is less, and except for the areas proscribed by Section 30610.5(b) of the Coastal Act.*

Additionally, even if an agricultural development is found to be new development therefore requiring a CDP, the IP as proposed by the County to be modified offers new tools to streamline the CDP process. These streamlined procedures include the County's use of the de minimis waiver of CDP requirements process for non-appealable development (IP Section 22.68.070), and public hearing waivers for appealable development (IP Section 22.70.030(B)(5)). With respect to de minimis waivers, as suggested to be modified, any non-appealable development, if it is found to be consistent with the LCP and does not have potential for any adverse effect on coastal resources, can have CDP requirements waived by the Board of Supervisors. The proposed waiver must be noticed to the Executive Director of the Commission, and he/she has the right to request that waiver not be issued and that a regular CDP be obtained, consistent with the process for de minimis waivers specified in the Commissions regulations. The new IP allowance for a de minimis waiver process stems from Coastal Act Section 30624.7, while the new IP allowance for a waiver of a public hearing for appealable development stems from Section 30624.9. Since all appealable development is required to have one public hearing (See 14 CCR 13566), 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 nobody specifically requests a hearing. Minor development must still be found consistent with the certified LCP, cannot require any other discretionary approval, and cannot have any adverse effect on coastal resources or public access to and along the coast.



Thus, concerns have been raised on both sides, namely that this updated LCP will somehow open the floodgates to new development proposed on sensitive coastal resources on the one hand and new permit requirements will unfairly burden agricultural operators on the other. Neither concern is entirely accurate. As suggested to be modified, the updated LCP will only enhance coastal resource protection and reduce the allowable development, as described on page 62 of the staff report, through Commission staff's buildout analysis. At the same time, these updated policies recognize the unique role of agricultural interests in Marin's coastal zone and provides a framework that helps to facilitate the continuation of family farming.

***“Necessary” for Agricultural Production***

Public comments have raised concerns about the deletion of the requirement that development on C-APZ lands demonstrate that is necessary for agricultural production. As stated on page 52 of the staff report, C-AG-2 no longer includes the “and necessary for” language instead stating that in order to assure that the principal use of C-APZ land is agricultural, any development shall be “accessory to, in support of, and compatible with agricultural production.” However, C-AG-2 remains consistent with sections 30241 and 30242 of the Coastal Act because: (1) all development must still be “in support of agricultural protection;” (2) the proposed C-APZ zone would no longer include non-agricultural development as principally permitted as does the currently certified LCP; and (3) the agriculturally-related development designated as principally permitted in the C-APZ zone is defined as development that is “necessary and appurtenant” to the operation of agriculture.

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). Allowing agricultural production and the facilities that support it as types of development designated as principally permitted in the commercial agricultural zone is Coastal Act consistent 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.

Finally, 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. Suggested modifications in the proposed LCP's IP definitions section (discussed below) ensure that these permitted agricultural uses must meet all the following criteria “accessory and incidental to, in support of, compatible with agricultural production” to even be considered such agricultural uses under the LCP. These suggested modifications together will ensure that each new development on C-APZ lands will be in support of agricultural production.

***Program C-AG-2.b***

Public comments have raised concerns about the Coastal Act consistency of continuing to research the possibility of authorizing residential development in the C-APZ zoning district. LUP programs do not comprise the standard of review for the approval of coastal permits. Instead, as set forth in Development Code Section 22.70.070 – Required Findings, the policies of the LUP and the development standards of the Zoning Code, comprise the standard of review for coastal

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permits. Section 22.70.070 entitled “Findings” provides: The applicable review authority shall approve a Coastal Permit only when it first makes the findings below in addition to any findings required by the Marin County Local Coastal Program. Findings of fact establishing that the project conforms to all requirements of the Marin County Local Coastal Program shall be made and shall include all of the findings enumerated below. The findings shall reference applicable policies of the Marin County Local Coastal Program where necessary or appropriate in addition to the development standards identified below.

On the other hand, programs identify future evaluations to be undertaken by the County before it considers whether and how to propose future LCPAs. For example, Program 2b expressly states that the Program would have no effect until certified as an LCPA by the Coastal Commission. As described on page 54 of the staff report, through proposed Program C-AG-2.b, the County expresses its intention to research the use of affirmative agricultural easements, including in conjunction with residential development. Although the County and its staff are free to undertake the research County staff identify in Program C-AG-2.b, a subsequent LCP amendment would be required before any residential development could occur. Program references do not mean that residential development will eventually become a conditional use in C-APZ, especially given that the County has not yet conducted its study.

### ***Takings Claims***

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, these public comments fail to acknowledge the existing limitations in the certified LCP that apply to development in the C-APZ. First, the County has other areas of the coastal zone designated residential as well as two other agricultural zones wherein residential development is to be concentrated. Second, there was never an entitlement to develop a single-family residence in the C-APZ; the County’s agricultural production zone is not a residential zone and the denial of a single-family residence would still leave the farmer with the ability to grow agriculture as a commodity for commercial purposes. Third, single-family residences in the County’s agricultural production zone are currently subject to stringent use limitations, including that any permissible residence must “protect and enhance continued agricultural use and contribute to agricultural viability”. If this standard could be met, permanent conservation easements were to be recorded over the portion of the property not used for physical development, and a prohibition on further division of the property was executed as a covenant against the property.

Further, the definition of actively and directly engaged includes “maintaining a lease to a bona fide commercial agricultural producer” to ensure that farmers and ranchers can retire from active farming or ranching while complying with LCP requirements by leasing land to another producer. Section 22.42.024(F) expressly excepts agricultural leases from the limitation on dividing farmhouses and intergenerational homes from the rest of the legal lot containing the farmhouse and IG. In addition, section 22.32.024(D) of the LCP Update 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. Future development of the other legal lots comprising the farm tract are subject to the provisions of the certified LCP.

Therefore, rather than deviate from the framework set up in the currently certified LCP, the LCP Update (that only allows one farmhouse and up to two intergenerational homes for each farm tract owner or operator actively and directly engaged in agriculture), serves to limit the proliferation of agricultural dwelling units in the coastal zone by acknowledging that the a “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 LCP Update (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 currently certified LCP, the agricultural policies are intended to avoid buildout spread evenly across the zoning district, inefficiently utilizing the agriculturally productive land and requiring large investments for public service. Therefore the LCP Update provisions seek to cluster permissible development and direct other construction to existing communities where it can be accommodated. As modified, the Commission finds that the LCP Update protects and enhances the agricultural productivity and viability of the County’s agricultural production zone consistent with the requirements of the Coastal Act. By limiting dwellings within the agricultural production zone to farmhouses, land values are driven agriculturally rather than residentially, helping to sustain the long term viability of agriculture and prevent large residential estates from driving up the cost of the agricultural land.

Finally, regarding the imposition of affirmative agricultural easements in connection with non-agricultural conditional uses, such agricultural easements are only authorized “consistent with state and federal laws,” such as the state and federal constitution.

### **Coastal Village Commercial Residential Zoning District**

Numerous public comments have suggested that the Principal Permitted Use allowed within the Coastal Village Commercial Residential (C-VCR) Zoning District should be residential rather than commercial, or that both residential and commercial should be allowed as principally permitted uses within the C-VCR district depending on their location. Many public comments have also expressed concern over the prioritization of commercial uses in this zone when there are already sufficient commercial services but where residential development is in demand.

As proposed by the County, commercial use was designated as the principally permitted use and residential use (already existing) was designated as a permitted use in the village core commercial area (to be defined on maps not yet finalized or adopted by the Board of Supervisors). Outside of the commercial core area, residential use would be the principally permitted use. Staff notes that County and Commission staff spent considerable time discussing this concept, and were in agreement on it when the Board last considered the proposed LCP update locally. Staff continues to believe that the core village area should remain mostly

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commercial, but also acknowledges the role that residential uses in these areas play in terms of each community and its character.

At the Board of Supervisors hearing on April 19, 2016, this issue was the subject of some debate, at least partly fueled by some confusion at the time about what County staff was proposing. The submitted proposed language keeps the commercial core concept, but identifies both residential and commercial as principally permitted. Staff's proposed modifications specify that commercial be the principally permitted use, and residential a permitted use. The reason for this is that under Section 30603(a)(4) of the Coastal Act, in coastal counties, development not designated in a zoning district as *the* principally permitted use is appealable to the Commission. Thus, unless a zoning district identifies one type of principally permitted use, all development proposed in the zoning district would be appealable to the Commission. Therefore, if approved as proposed by the County, because two uses are currently proposed in this zone, all new development proposed in the VCR zone would be appealable because there would be multiple principally permitted uses in the C-VCR zone.

After further input from the public, the County has expressed the desire to rezone the village core commercial area resulting in one principally permitted use for both the VCR commercial core area (commercial) and the VCR non-commercial core area (residential). However, until that is accomplished, the Commission staff's suggested modifications establish commercial use in the C-VCR as the principally permitted use for purposes of appealability and includes a description of the village core for the purposes of policy implementation of the residential limitations in the village core area in the interim (before the maps are adopted) consistent with the objective of the County's proposed language.

As described on page 94 of the staff report, 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). The suggested modifications to Policy C-PK-3 also help ensure that commercial uses remain the primary use in the zoning district and that residential uses will be allowed consistent with the requirements of Coastal Act section 30222. Even though new residential uses will be appealable throughout the C-VCR district until the maps are adopted and the rezone occurs, these proposed new uses can still be permitted by the County and if existing the residential use would be allowed to be maintained, repaired, and remodeled regardless of their location.

### **Community Centers**

Some commenters have asked that the Commission specify that community centers be designated for non-profit use only. As described on page 99 of the staff report, in response to public comment regarding the need for community centers in residential zoning districts to be owned and operated by non-profits, the County-adopted proposed IP requires community centers to be designed to enhance public recreational access and visitor-serving opportunities. The Coastal Act question in this regard is not whether it is a for-profit or a not-for-profit enterprise, rather that public recreational access and visitor-serving uses are prioritized. Thus, regardless of ownership, community centers will serve public recreational access and visitor-serving purposes, and additional modifications are not necessary in this respect.

## **CDP Procedures and Public Participation**

### ***Exemption Noticing and Challenging***

The County has expressed concern over the Commission staff suggested process for exemption noticing and challenges and goes as far as to assert that exemptions are not regulated under the Coastal Act. Commission staff disagrees. As explained in the staff report, the provision of public notice for exemption decisions is especially critical because Section 30625 of the Coastal Act grants the Commission appellate jurisdiction to hear an appeal of a decision rendered by a local government on either a coastal development permit or a claim of exemption from Coastal Act permitting requirements. Further, public comments received by the Commission have repeatedly asserted the critical importance of adequate and effective noticing of CDP exemption determinations made by the County. Section 30006 of the Coastal Act provides that “the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.” While Commission staff recognizes workload concerns expressed by the County with regard to exemption noticing, public notice must be provided if there is going to be a deadline required by the County for challenging the exemption determinations. Commission and County staff discussed numerous options for exemption noticing which would meet public participation requirements of the Coastal Act and County procedures but are still unable to come to an agreement. Regardless of the process outlined in the Marin LCP, any determination of exemption can still be challenged directly to the Commission per Coastal Act section 30625 and Section 13569 of the Commission’s administrative regulations. Therefore, the Commission staff recommends the following modifications to 22.68.040:

~~B. Exemption Noticing. The County shall maintain a list of development exempted from Coastal Permit requirements, which shall be posted on the Community Development Agency’s website. Notice of development determined to be exempt from the requirements of obtaining a Coastal Permit shall be transmitted to the applicant, Coastal Commission, and interested parties. The notice shall include the applicant’s name, project description and location, the reasons supporting the exemption determination and the date of the Director’s exemption determination for each project, and the procedures for challenging the Director’s determination.~~

~~CB. Exemption Challenge. The determination of whether a development is exempt from the requirements for a Coastal Permit can be challenged pursuant to Coastal Act Section 30625 and Section 13569 of the Commission’s regulations to Section 22.70.040.~~

Importantly, when the County and the Executive Director are in agreement on the exemption, there is no further challenge available under CCR Section 13569.

### ***Adequacy of Public Infrastructure***

Public comments have raised concerns that the updated LCP will lead to an increase in traffic and groundwater depletion along the eastshore of Tomales Bay. As described in IP Section 22.65.040, all development in the C-APZ zoning district shall be permitted only where adequate water supply, sewage disposal, road access and capacity and other public services are available

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to support the proposed development after provision has been made for existing and continued agricultural production. Further, Commission staff prepared build out analysis that found the updated LCP policies will, in fact, reduce development potential on C-APZ lands in Marin's coastal zone.

Further, in areas with limited water service capacity, when otherwise allowable, new development for a non-Coastal Act and LCP priority use (i.e., a use other than agricultural production, coastal-dependent uses, public recreation, essential public services, and, within village limit boundaries only, visitor- serving uses and commercial recreation uses) shall only be allowed if adequate capacity remains for the above-listed priority land uses. In such limited service capacity areas, in order to minimize the reduction in service for and reserve capacity to priority land uses, applications for non-priority uses shall be required to offset their anticipated water usage through the retrofit of existing water fixtures or other appropriate measures within the same service area of the water system operator or the public/community sewer system of the proposed development, whichever is applicable. As set forth in IP Section 22.64.140(A)(1)(e), all Coastal Permits authorizing development that results in increased water usage shall provide to the Reviewing Authority: 1) A list of all existing fixtures to be retrofitted and their present associated water flow (e.g. gallons/second); 2) A list of all proposed fixtures to be installed and their associated water flow; and 3) The estimated annual water savings resulting from the proposed retrofit, showing all calculations and assumptions. The County shall require certification from water service providers that all measures to reduce existing water usage has been implemented in an amount equal to or greater than the anticipated water use of the proposed project.

### **Biological and Water Resources**

The Marin County coastal zone contains an extraordinary 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.

### ***Enforceable Standards***

Public comments have asserted that the standards described in the biological and water resources LUP policies and IP sections do not include enforceable standards. However, as described on page 72 of the staff report, the updated LCP describes the necessary steps and process the County must employ in order to determine when a project needs a biological site assessment, as well as a listing of the required parameters the assessment must analyze in order to determine whether ESHA is protected. For example, while LUP Policy C-BIO-2 states that a biological site assessment is required, IP Section 22.64.050(A)(1) implements the policy by identifying the process by which the assessment is to be performed, including describing what resources the County is to review when assessing the initial project submittal, stating that the assessment is required when the County's initial screening review shows that ESHA may be located within 100 feet of the project location, and then listing the required parameters for the assessment (including that it may only be prepared by a qualified biologist). For water resources, the updated LCP policies outline application requirements for projects, which may have a potential impact on

water quality, water quality standards for new development, and grading and excavation standards, as described on p. 76 of the staff report.

***Wetland and Stream Buffer Reductions***

Public comment has raised the issue of the Coastal Act consistency of wetland buffers reductions allowed in the proposed LUP. In addition to the limitations on buffer adjustments set forth in C-BIO-19 subsection (1), subsection (2) of C-BIO-19 states that a buffer adjustment may only be granted if supported by the findings of a site assessment which demonstrate that the adjusted buffer, in combination with incorporated siting, design, and other mitigation measures, will prevent impacts that significantly degrade the wetland and will be compatible with the continuation of the wetland ESHA. A parallel provision is set forth in C-BIO-25 governing stream buffer adjustments. Therefore, the LUPA's proposed Biological Resources chapter includes policies to protect coastal streams and ESHA wetlands, consistent with the biological resource policies of the Coastal Act.

***Allowable Uses in ESHA and Wetlands***

Public commenters have requested that suggested modifications be added clarifying that residential uses are not permissible uses in wetlands. While there is agreement that residential uses are not permissible uses in wetlands, it is not necessary to add additional suggested modifications. First, C-Bio-2 establishes that only resource-dependent uses are allowed in ESHA. It is not necessary to list every use that is impermissible. Further, a modification is required in Section 22.64.050(A)(1)(d) to state that the only allowed uses to be considered for siting within ESHA, wetlands, and streams are those specifically identified to be allowable within ESHA per applicable LUP policies. Therefore, mitigation for ESHA habitat loss/adverse impacts is only allowed as a mitigation strategy for otherwise permissible uses specifically identified in the LUP when there are no feasible alternatives, including the no project alternative that would avoid ESHA impacts. A similar modification is also required in Section 22.64.050(B)(11), which clarifies that new development proposed within coastal streams and riparian vegetation is only permitted for the uses identified in LUP Policy C-BIO-24, and not for other types of proposed uses. These modifications make clear that any new development proposed to be sited within ESHA must be otherwise permissible.

***Significant Views***

Public concern has been raised about the use of the word significant in policies related to the protection of visual resources. Section 30251 requires that development be sited and designed to protect views to and along the ocean and scenic coastal areas. The County's inclusion of the word "significant" before the phrase "public views" is consistent with Section 30251 of the Coastal Act because the Coastal Act does not require that permits be denied for all projects which infringe in any way, no matter how minimal, on any public view, no matter how limited, from any public vantage point, no matter the proximity of unlimited and expansive public views. By reviewing proposed development on a case by case basis to ensure that significant public views are protected based on the particular facts of each case, the reviewing authority will be able to ensure protection of significant public views in a meaningful, site specific manner.

## LCP-2-MAR-15-0029-1 (Marin LCP Update) Addendum

### Additional Density Restrictions

The County asserts that suggested modifications proposed by the Commission staff would further restrict development by applying lowest allowable density and floor area restrictions to properties containing hazardous areas and environmentally sensitive habitat areas (ESHA), by specifying that exceptions to these restrictions can only be considered where development will avoid ESHA and hazards and their related setbacks. The Commission staff modifications are not changing the exceptions outlined in the footnotes for projects that provide significant public benefits as proposed by the County. The suggested modifications only require that when making a density determination above the lowest allowable, ESHA and hazards on the site should be accounted for, consistent with other LCP policies, and the density should reflect the amount of land available to develop outside of appropriate ESHA and hazards and their related buffers.

### Land Division Requirements

The County raises concern over Commission staff recommended changes to 22.70.190 B(1) as it may prohibit innocuous lot line adjustments outside village limits which could be found allowable under 22.70.190 B(3). Commission staff proposes the following modifications to allow for lot line adjustments and other land divisions that would not have a significant adverse effect, either individually or cumulatively, on coastal resources.

#### B. Criteria for Land Divisions of Land

~~1) Land divisions shall be prohibited if located outside of designated village limit boundaries and within an area found to have limited public service capacities (as specified by Section 22.64.140).~~

3) Land divisions ~~Divisions of land~~ outside existing developed areas shall be permitted only in areas with adequate public services, and where they will not have a significant adverse effect, either individually or cumulatively, on coastal resources. In addition, land divisions outside village limit boundaries shall only be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding legal parcels, except that lease of a legal parcel at a level of agricultural use that will sustain the agricultural capacity of the site is not prohibited, and lot line adjustments that do not increase potential development intensity are allowed.

### Additional Changes

Additional changes to the suggested modifications and findings are listed in track changes below:

- On page 2293 of Exhibit 13 change the following:  
*Existing Structure (coastal). A structure that is legal or legal non-conforming. For the purpose of implementing LCP policies regarding shoreline protective devices, a structure in existence since ~~February 1, 1973~~ January 1, 1977.*
- On page 2142 in Exhibit 13 of the staff report change the following:  
*22.32.180 – Wind Energy Conversion Systems (WECS)*



## LCP-2-MAR-15-0029-1 (Marin LCP Update) Addendum

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

- Revise the statement on page 80 of the staff report to reflect that:

*Coastal Act Section 30250 requires new development to be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The Section specifies that “land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.” In the C-APZ zoning district of Marin County, 50% of usable parcels in the area have not been developed. Thus, land divisions outside existing developed areas within the C-APZ zoning district shall not be permitted. Policy C-CD-2 implements this provision and states that land divisions must conform with the land use categories and densities of the LUPA and Coastal Act Section 30250(a) ’s as well as a general requirement that all new parcels be consistent with all LUPA policies (and not just density). This policy ensures that no land division is allowed if the resulting parcel configuration cannot accommodate LUP-consistent development.*

- On page 15 of the staff report, and on page 700 of Exhibit 7 and pages 1969 and 1973 of Exhibit 12, change the following:

*Appendix 7: Categorical Exclusions Orders and Maps a. Zoning in effect in Marin County on ~~August 4<sup>th</sup>~~ May 5th, 1981 (Date of approval of E-81-2)*

- On page 61 of the staff report, change the following:

*Also, such excludable development must still be found consistent with the zoning in effect at the time of the orders’ adoption (~~meaning the 1982 certified LCP~~)(meaning the 1981 zoning ordinance). As such, in order for development to be excluded, it would need to meet the ~~1982 certified LCP’s requirements~~1981 zoning ordinance.*

- Insert as first full paragraph on page 24 regarding impacts of shoreline protective devices:

*More specifically, seawalls can impact public beaches through (1) loss of the beach area that the seawall physically occupies, (2) narrowing of the beach in front of a seawall by preventing bluff retreat while the beach continues to erode; and (3) loss of sand which would have resulted from the bluff’s natural erosion. Seawalls can impact public access and recreational use by inhibiting the natural landward migration of lands subject to the public trust and compromise public access and recreation along the shoreline. Further, seawalls can impact adjacent unprotected properties. Studies have shown show that unprotected adjacent properties experience a greater retreat rate than they would if a seawall were not*

## LCP-2-MAR-15-0029-1 (Marin LCP Update) Addendum

present. Also, seawalls substantially alter the natural appearance of bluffs, negatively impacting a shoreline's character and visual quality.

- Insert the following paragraph after the third paragraph on page 35:

Seawalls are not intended to be permanent structures accommodating future redevelopment of homes. And a right to protect one's property under California Constitution article 1 section 1 "is not the equivalent of a vested right to protect one's property in a particular manner where the method chosen is one regulated by government" (Whaler's Village Club v. Cal. Coastal Commission (1985) 173 Cal.App.3d 240, 261). Because the construction of seawalls to protect private property destroys and blocks public access to California beaches, such construction can be prohibited not only under the public trust doctrine itself, but the Coastal Act's codification of that doctrine. Seawalls prevent the mean high tide line from moving further inland, and eventually the public beach, along with its public access and recreational opportunities, will disappear. As the Ninth Circuit noted in a dispute involving shoreline armoring by waterfront homeowners and ambulatory tidelands held in trust by the federal govt, "[w]hile the Homeowners cannot be faulted for wanting to prevent their land from eroding away...the Homeowners cannot permanently fix the property boundary, thereby depriving the trustee of tidelands they would otherwise gain" (United States v. Milner (9th Cir. 2009) 583 F.3d 1174, 1188-1190). As the mean high tide line moves inland, the lands subject to the public trust also move inland. The State is required to hold these lands in perpetual trust for the benefit of the people of the State of California and is charged with protecting these resources for the benefit of all citizens (Public Resources Code Section 6301; City of Berkeley v. Superior Ct. (1980) 26 Cal.3d 515, 521). As discussed below, suggested modifications ensure that a public agency that is delegated state law authority is able to meet this obligation.

Redevelopment of property extends the life of the development, thereby allowing it to interfere with public trust lands in a variety of ways, including by encroaching onto those lands, obstructing access to or otherwise interfering with use of those lands, and impeding natural changes to those lands. Interference with tidelands constitutes a significant impact to public rights that outweighs the burden of removal of an existing seawall that is no longer required to protect the structure it originally had been constructed to protect. When exercising permitting authority, under the Coastal Act, a public agency is duty-bound by its public trust obligations to guard against a loss of public trust assets. Sections 30210-11 of the Coastal Act, implementing Article X, section 4 of the California Constitution, require the protection of public beach access and recreational opportunities for all people. Coastal armoring instead diminishes public beaches and destroys public access to the tidelands. If the existing structure is no longer there or no longer requires protection, the shoreline protective device must be removed. In addition, once a shoreline protective device is no longer needed to protect the structures it was originally intended to protect, where the shoreline protective device interferes with the public trust resources, removal of the wall is required to avoid a public nuisance or trespass on public trust lands (Scott v. City of Del Mar (1997) 58 Cal. App. 4<sup>th</sup> 1296, 1305-06).

Therefore, as set forth in the Suggested Modifications to C-EH-11, where an applicant proposes to remove or redevelop an existing structure on lots containing existing shoreline

protective devices, such development shall not be approved unless the shoreline protective device is removed or unless the shoreline protective device is required to protect an existing principal structure or coastal dependent use in danger from erosion. If the existing shoreline protective device is not required to be removed because it is required to protect an existing principal structure or coastal dependent use in danger from erosion, the Permittee shall be required to remove the existing shoreline protective device once it is no longer required to protect an existing principal structure or coastal dependent use in danger from erosion.

- Revise the third paragraph on page 68 to read:

*Public comment has raised the issue of the Coastal Act consistency of wetland buffers reductions allowed in the proposed LUP. However, the proposed LUP clarifies that such a reduction can only be applied to legally constructed wetlands (meaning they were authorized by coastal permit or pre-dated coastal permit requirements). Further, in recognition of the fact that constructed wetlands can provide important habitat value that must be protected consistent with Coastal Act resource protection policies, the proposed LUP Update states that wetland buffers can only be reduced for wetlands that were legally created, and for wetlands that have no habitat value. In addition to the limitations on buffer adjustments set forth in C-BIO-19 subsection (1), subsection (2) of C-BIO-19 states that a buffer adjustment may only be granted if supported by the findings of a site assessment which demonstrate that the adjusted buffer, in combination with incorporated siting, design, and other mitigation measures, will prevent impacts that significantly degrade the wetland and will be compatible with the continuation of the wetland ESHA. A parallel provision is set forth in C-BIO-25 governing stream buffer adjustments. Therefore, the LUPA's proposed Biological Resources chapter includes policies to protect coastal streams, and ESHA wetlands, consistent with the biological resource policies of Coastal Act.*

- Replace paragraph on page 79 of the staff report with the following:

*Proposed LUP Policy C-DES-2 requires the protection of significant public views throughout the coastal zone but further defines these significant views as "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 language "to and along the ocean and scenic coastal areas" is the precise language from Coastal Act Section 30251 ensuring that all scenic coastal areas, and not just those directly along the water, are protected consistent with the visual resource protection policies of the Coastal Act.*

Section 30251 requires that development be sited and designed to protect views to and along the ocean and scenic coastal areas. The County's inclusion of the word "significant" before the phrase "public views" is consistent with Section 30251 of the Coastal Act because the Coastal Act does not require that permits be denied for all projects which infringe in any way, no matter how minimal, on any public view, no matter how limited, from any public vantage point, no matter the proximity of unlimited and expansive public views. By reviewing proposed development on a case by case basis to ensure that significant public views are protected based on the particular facts of each case, the reviewing authority will be able to ensure protection of significant public views in a meaningful, site specific manner.

## **LCP-2-MAR-15-0029-1 (Marin LCP Update) Addendum**

- Revise first sentence of 2nd paragraph on page 95 to read:

*In the interim, suggested modifications have been added defining the village commercial core textually to include the central portion of each village that is predominantly commercial...*

### **EXHIBITS**

Exhibit 1: Summary of the Commission staff coordination and involvement throughout the C-SMART process

Exhibit 2: Commission staff recommendations to the County's hazard policies dated March 23, 2016

Exhibit 3: Comparison chart between the existing, proposed and modified LCP hazard policies

Exhibit 4: County's map of the Easkoot Creek floodplain

Exhibit 5: Flowchart of agricultural permitting process

## Pre-LCP-2-MAR-14-0113 Communications Tracker

Communication Type	Date	Contact Name	Comments
Letter	1/8/2014	From Hilary Papendick to north central staff, Abe Doherty, Jack Liebster	Work program finalized
Letter	1/21/2014	From Jack Liebster to Hilary Papendick	Updated budget for OPC and CCC
Letter	2/7/2014	From Jack Liebster to Hilary Papendick	Updated work program and budget
Email	2/10/2014	From Hilary Papendick to Jeannine, Nancy and Dan	Sign off on work program
Email	2/18/2014	Hilary Papendick, Jessica Reed	Contract documents
Letter	3/7/2014	Hilary Papendick, Abe Doherty at OPC	Reviewing contract documents
Letter	3/10/2014	From Hilary Papendick to Jack Liebster	Reviewing contract documents
Email	4/24/2014	From Hilary Papendick to Jack Liebster	Invoicing guidelines
Email	4/28/2014	From Hilary Papendick to Jack Liebster	Grant resources page
Email	6/9/2014	From Hilary Papendick to Jack Liebster	Subconsultants' scope of work
Telephone Conversation	7/8/2014	Ocean Protection Council (OPC) and CCC staff	OPC and CCC staff to discuss how to coordinate Monterey, Marin and Sonoma on LCP grant projects and how to share lessons learned.
Meeting	7/10/2014	Alex Westoff and Jack Liebster, Marin County staff (not attended by CCC staff)	Public Kickoff Meeting Point Reyes National Seashore Introduction to the project
Email	8/27/2014	From Jack Liebster to Hilary Papendick	request for word version of contract
Meeting	9/11/2014	LCP grantees (Sonoma, Marin, Monterey) OPC, CCC staff	Meeting to discuss how to share information amongst grantees and communicate lessons learned.
Meeting	10/14/2014	C-SMART Stakeholder Advisory Committee meeting #1 (not attended by CCC staff)	Meeting to discuss the C-SMART Vulnerability Assessment process, specifically gathering feedback on the exposure maps, as well as the overall approach to vulnerability combinations) and to discuss potential vulnerability impact land use metrics, riverine flooding,
Meeting	10/15/2014	C-SMART Technical Advisory Committee meeting #1, attended by Marin County, CCC, and other agency staff	Meeting to discuss the C-SMART Vulnerability Assessment process, specifically gathering feedback on the exposure maps, as well as the overall approach to vulnerability combinations) and to discuss potential vulnerability impact land use metrics, riverine flooding,

Pre-LCP-2-MAR-14-0113 Communications Tracker

Meeting	10/28/2014	Alex Westoff and Jack Liebster, Marin County staff (not attended by CCC staff)	Public Workshop #1 Inverness Yacht Club Participants will collaborate on articulating the values, resources and assets that could be vulnerable to rising seas.
Meeting	10/29/2014	Alex Westoff and Jack Liebster, Marin County staff (attended by CCC staff)	Public Workshop #2 Stinson Beach Community Center Participants will collaborate on articulating the values, resources and assets that could be vulnerable to rising seas.
Meeting	10/30/2014	Alex Westoff and Jack Liebster, Marin County staff (not attended by CCC staff)	Public Workshop #3 Tomales Town Hall Participants will collaborate on articulating the values, resources and assets that could be vulnerable to rising seas.
Telephone Conversation	11/4/2014	From Hilary Papendick to Jack Liebster	left phone message for Jack L asking how workshops went
Email	11/12/2014	From Lauren Armstrong, cc Jack Liebster, to Hilary Papendick; forwarded by Hilary to Shannon Fiala and Kevin Kahn	Second C-SMART progress report
Email	11/25/2014	From Jack Liebster to Hilary Papendick; forwarded to Shannon Fiala	Pacific Sun Article on SLR
Email	1/21/2015	From Alex Westhoff to Shannon Fiala; forwarded to Greg Benoit	mapping data request
Email	2/10/2015	From Jack Liebster to Hilary Papendick; forwarded to Shannon Fiala	CSMART Progress ReCSMART Progress Report #3 and RFFport #3 and RFF
Meeting	2/10/2015	C-SMART Technical Advisory Committee meeting (attended by CCC staff)	Discuss draft LCP Amendments and Adaptation Report
Meeting	3/13/2015	C-SMART Technical Advisory Committee meeting (attended by CCC staff)	Discussing draft vulnerability assessment
Email	3/16/2015	From Alex Westhoff to Lesley Ewing	Request for more information regarding public trust lands and sea level rise
Telephone Conversation	3/23/2015	Phone call with Alex Westhoff and Hilary Papendick	Revision to the grant contract timeline

Pre-LCP-2-MAR-14-0113 Communications Tracker

Email	3/23/2015	From Alex Westhoff to CCC staff	Vulnerability Assessment outline for CCC staff review
Email	3/30/2015	From Alex Westhoff to CCC staff	Scheduling bi-monthly coordination meetings
Email	4/3/2015	From Hilary Papendick to CCC district staff	3rd quarter progress reports for the FY 13 LCP grant projects
Meeting	4/21/2015	CCC staff and Marin County Staff	First bi-monthly CSMART coordination meeting, discussed Vulnerability Assessment Outline, C-SMART Adaptation Public Involvement, Scheduling Future Coordination Meetings
Email	4/30/2015	From Jack Liebster to CCC staff and OPC staff	Request for 2 weeks after Quarter end to file Progress Reports
Email	5/5/2015	From County staff to CCC staff	CSMART Progress Report #4 and RFF
Email	5/6/2015	From County staff to CCC staff	Draft CSMART Vulnerability Assessment for review
Email	5/11/2015	From Bridgit VanBelleghem to Shannon Fiala	Request for additional information of the Seadrift revetment
Telephone Conversation	5/18/2015	County staff and CCC staff	Feedback on the draft vulnerability assessment
Email	5/20/2015	From County staff to TAC members (incl CCC staff)	Invitation to provide peer review comments on draft vulnerability assessment
Telephone Conversation	5/21/2015	Hilary Papendick, CCC staff and local grant recipients	First round LCP Grant Coordination Call
Email	5/27/2015	From CCC staff to TAC members (incl County staff)	Track changes comments on the draft vulnerability assessment
Meeting	5/30/2015	C-SMART Public Meeting in Point Reyes Station (attended by CCC staff)	Game of Floods
Email	6/4/2015	From County staff to CCC staff	Request for coastal armoring data
Meeting	6/6/2015	C-SMART Public Meeting in Stinson Beach (not attended by CCC staff)	Game of Floods
Email	6/15/2015	From County staff to CCC staff	Extension request for Final Vulnerability Assessment deadline (due to the FEMA maps being released later than anticipated).
Meeting	6/24/2015	County staff and CCC staff	Second bi-monthly CSMART coordination meeting, discussed Vulnerability Assessment draft, C-SMART Adaptation Public Workshops
Email	7/31/2015	From County staff to CCC staff	CSMART Progress Report #5 and RFF
Email	8/4/2015	From County staff to CCC staff	Draft Adaptation Plan Outline

Pre-LCP-2-MAR-14-0113 Communications Tracker

Meeting	8/20/2015	County staff and CCC staff	Third bi-monthly CSMART coordination meeting, discussed Vulnerability Assessment finalization, C-SMART Adaptation Public Workshops, Adaptation Plan outline
Email	8/31/2015	From CCC staff to County staff	Revision to the grant contract timeline
Meeting	9/1/2015	County public meeting at Stinson Beach (not attended by CCC staff)	Educate public about sea level rise
Email	9/2/2015	From County staff to CCC staff	Draft Adaptation Plan Outline feedback
Email	9/18/2015	From CCC staff to County staff	Feedback on the revised draft vulnerability assessment
Email	9/22/2015	From CCC staff to County staff	Revision to the grant contract timeline
Telephone Conversation	10/14/2015	Phone call with the Technical Advisory Committee	Draft Adaption Plan feedback
Email	10/15/2015	From County staff to CCC staff	Draft Adaptation Plan chapters for review
Email	10/21/2015	From County staff to CCC staff	After several discussions with FEMA staff and our consultants we have decided to not include the FEMA CCAMP data in our Vulnerability Assessment.
Meeting	10/29/2015	County staff and CCC staff	Third bi-monthly CSMART coordination meeting, discussed Vulnerability Assessment finalization, C-SMART Adaptation Public Workshops, Adaptation Plan draft, contract amendments, LCPA next steps
Email	11/3/2015	From County staff to CCC staff	CSMART Progress Report #6 and RFF
Meeting	11/9/2015	Marin County Planning Commission	Vulnerability Assessment Presentation
Meeting	11/14/2015	Public Meeting on Sea Level Rise Adaptation Strategies (attended by CCC staff)	West Marin Sea Level Rise Adaptation Workshop at Stinson Beach Community Center
Meeting	11/17/2015	Marin County Board of Supervisors	Vulnerability Assessment Presentation
Email	11/30/2015	From County staff to CCC staff	Draft Task 5 - Transfer Lessons Memo for review
Meeting	12/10/2015	Public Meeting on Sea Level Rise Adaptation Strategies (not attended by CCC staff)	West Marin Sea Level Rise Adaptation Workshop at Point Reyes Station Dance Palace
Meeting	12/15/2015	County and CCC staff	Fourth bi-monthly CSMART coordination meeting, discussed draft EH LCPA



Pre-LCP-2-MAR-14-0113 Communications Tracker

Meeting	1/20/2016	County and CCC staff	Fifth monthly CSMART coordination meeting, discussed draft EH LCPA
Email	1/25/2016	From County staff to CCC staff	Draft Adaptation Plan for review
Email	1/29/2016	From County staff to CCC staff	CSMART Progress Report #7 and RFF
Meeting	2/3/2016	Public Meeting on Resilient Stinson Design Charrette (attended by CCC staff)	
Email	2/17/2016	From County staff to CCC staff	Draft Environmental Hazards LUP and IP for review
Email	2/23/2016	From CCC staff to County	Examples of projects that used 75-100 year timeframe for hazard analysis
Email	2/26/2016	From County staff to CCC staff	Revised Draft Adaptation Plan for review
Email	3/4/2016	Public notice (email blast)	Working Draft Local Coastal Program Documents Available for Review
Meeting	3/8/2016	County and CCC staff	Draft Environmental Hazards LUP and IP discussion
Letter	3/23/2016	From CCC staff to County	Comment letter summarizing Draft Environmental Hazards LUP and IP discussion
Meeting	3/29/2016	Public Meeting on Tsunami Readiness (not attended by CCC staff)	Marin County Sherriff's Office of Emergency Services held a tsunami readiness workshop in Stinson Beach
Letter	4/12/2016	From CCC staff to County	Comment letter regarding County staff report and board recommendation
Meeting	4/19/2016	Marin BOS hearing	EH LCPA Approved
Telephone Conversation	4/27/2016	County and CCC staff	Wrapping up the Marin LCP grant contract

**CALIFORNIA COASTAL COMMISSION**

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**March 23, 2016**

Brian Crawford, Director  
Marin County Community Development Agency  
3501 Civic Center Drive, Suite 308  
San Rafael, CA 94903

Subject: ***Revised Marin County Local Coastal Program Update***

Dear Mr. Crawford:

As you know, the Coastal Commission approved an updated Marin County Local Coastal Program (LCP) Land Use Plan (LUP) in May 2014, and the Commission was considering approval of an updated LCP Implementation Plan (IP), which would have constituted approval of a complete LCP update, at a hearing in April 2015 when the County withdrew its proposed IP update. In the time since that April 2015 hearing, the County has decided to take a step back and to make new changes to both the LUP and the IP, and to resubmit a new LCP update package to the Commission for consideration following County Board of Supervisor hearings. While we would have strongly preferred that the LCP update be approved at that April 2015 hearing as we recommended, we have been and will continue to work with you and your staff as you develop these new LCP update documents, including those being forwarded to the Board for consideration in April. We provide this comment letter today in an effort to continue to assist the County in their current revised LCP update efforts.

Because there have been many versions of many different documents out for review at various times, we first want to note to what documents we refer in this letter. On February 16, 2016, we received from County staff their revised draft of the County's proposed LUP and IP updates, excluding the portions relating to environmental hazards and a completed definitions chapter. On February 17, 2016, we received from County staff their draft Environmental Hazards LUP chapter and related Environmental Hazards IP sections. On March 14, 2016, we received from County staff their proposed draft IP Definitions chapter (Chapter 22.130). Thus, when all of these documents are put together, we have what we believe to be your staff's proposed draft LUP update (LUPU) and proposed draft IP update (IPU).

On a bookkeeping note, and as befits a process with many moving pieces and drafts floating about, I would first note for the record that the County's proposed revised LCP update has not been deemed submitted (or "filed") at the Coastal Commission level. In fact, unlike the revised LUPU transmitted to the Commission and the portions of the IPU relating to agriculture transmitted to the Commission on October 8, 2015, the above-referenced drafts transmitted by County staff have not yet been acted on by the Board of Supervisors. Though those portions of the proposed revised LUPU and the portions of the IPU relating to agriculture were acted on by the Board in 2015, as indicated in our letter of December 16, 2015, neither the revised LUPU nor the revised IPU relating to agriculture have been deemed submitted, in part because of the

interrelationship between the provisions of the overall LCP update at differing stages of completion. It is our understanding that the County intends to move forward on all of the above-referenced documents and pieces as an integrated revised LCP update submittal rather than proceeding on specified parts in advance of others in a piecemeal fashion, and will be submitting to the Commission a complete revised LUPU and IPU package following Board consideration and action.

Specifically, it is our understanding that County staff plans to present its recommendations regarding the IPU, as well as the revised proposed Environmental Hazards LUP chapter and IP sections, to the Board at its April 19<sup>th</sup> meeting. On March 8th, 9th, and 15th, Commission staff met with County staff to discuss the above listed draft documents in an effort to resolve potential issues prior to an April 19<sup>th</sup> Board of Supervisors hearing. We appreciate the County staff's interest in incorporating into their draft any agreed upon modifications. For clarity, we have also provided a list of our comments to date, which we have expressed in our March meetings as well as previously. As also expressed in these meetings, please note that these comments provided are not meant to be comprehensive. This is in part due to the very condensed and limited timeframe for our review. We have done what we can in light of that constraint, but note that we may have additional comments as your process proceeds, particularly in terms of Environmental Hazards as that component of the update is probably the least developed and vetted at the current time. Where known, we have included proposed changes to the County's draft documents, including those portions previously acted upon by the Board, both to convey our belief in the need for revisions at the earliest opportunity and to inform your drafting of the remainder of the update, including importantly with respect to the IPU, given that the IP language must emanate from the LUP. We also recognize that we are not reviewing final drafts of these documents, especially revised proposed portions of the IP and the Environmental Hazards LUP Chapter and IP Sections, which are still being redrafted by County staff in response to recent discussions at our staff to staff meetings in March and with stakeholder groups. Finally, with regard to the draft IPU, please note that we have focused our review on the most recent changes based on our collective hope that the version of the IPU being used as the base document is the version that went forward to the Coastal Commission at the April 2015 hearing with the modifications suggested by Commission staff.

The following is organized in terms of comments on the revised draft LUPU and IPU documents, and also some even more specific comments in relation to the Environmental Hazard components of both. There is obviously some overlap, and please construe the comments in that way. And, as indicated above, we are providing these to you in this form and at this time to try to help the County as it prepares for the April 19 Board hearings on this matter. These comments must be understood as preliminary, and we respectfully reserve the right to provide additional comments in the future. Please consider the following:

## 1. LUP

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- Amendment History: Remove the amendment history from the LUP text. If the County chooses to maintain the history, make the references consistent throughout the document and expressly state that the amendment history will be not used to interpret certified LCP provisions. See pages 7-8 of our August 21, 2015 comment letter for more information.
- C-AG-2:
  - Revise C-AG-2 and corresponding IP provisions relating to accessory structures so they conform to the Board’s originally adopted language that “accessory structures be appurtenant and necessary to the operation of agriculture.”
  - Add definition of farm tract in (A)(4)(a).
  - Clarify in Part (B) (and/or in the IP) that if owner/operator or third parties, including non-profits, do not charge a fee for tours or charge a fee that is not for profit, then the use is a principal permitted use; if owner/operator or third parties charge a fee for profit, then the use is permitted.
- C-AG-5:
  - Add definition of farm tract to Part (A).
  - Restore the following sentence in Part (A), “The reviewing authority shall consider all contiguous properties under the same ownership to achieve the requirements of the LCP.” This statement is mandatory in contrast to the statement in the last sentence of C-AG-2 which is permissive.
- C-AG-7:
  - Delete the characterization of non-prime land as "other land suitable for agriculture" in Part (A)(1) since the Coastal Act reference to "other land suitable for agriculture" in Section 30242 instead refers to land not on the urban rural boundary.
  - Delete reference to siting "agricultural homestay" and "bed and breakfast facilities" in a clustered development area in Part (A)(4) because per C-AG-9(F), such facilities are only allowed in otherwise allowable agricultural dwelling units and by definition LCP provisions only apply prospectively to new development. Also, delete same references in 22.65.040(C)(1)(d).
  - Delete the word "only upon" from the following sentence to eliminate exclusivity and reflect inclusion in Part (B) because density is determined by development limitations other than AG-6 and AG-7(B): “The County shall determine the density of permitted agricultural dwelling units or land divisions ~~only upon~~ including by applying....”
- C-AG-8: Revise reference from (3) to (C) in Part (A).
- C-AG-9: Change reference from "legal lot" to "farm tract" in Part (C).

- C-BIO-9: Restore reference to C-EH.
- C-BIO-TBD: Renumber.
- C-BIO-14: Consider deletion of reference to "ongoing agricultural activities" since by definition, the LCP only applies prospectively to new development.
- C-EH: See below.
- C-CD-15: At the beginning of the first sentence, add "Consistent with the limitations to the village core commercial area outlined in PK-3...". Edit or add maps to reflect the village core commercial area described in PK-3.
- C-PFS-4: Restore deleted sentence in this Policy or create a new policy with this language in it because the Coastal Act requires new development to be served by adequate public services, including water, sewer, and traffic (Coastal Act Section 30250). In areas with limited public services, Coastal Act Section 30254 explicitly requires that service capacity be reserved for certain priority land uses, including agriculture, public recreation, and visitor-serving uses.
- C-PA-3: Restore previous language, or modify C-PA-2 and C-PA-3 to better emulate Coastal Act access policy structure, both in terms of Coastal Act Section 30212 and remaining access Sections.

## **2. IP.**

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- Working days: Restore all references to working days.
- Appendices: Add an appendix which includes all adopted Categorical Exclusion Orders, and any relevant local zoning ordinances in effect at the time each Categorical Exclusion Order was adopted, to the LUP or IP, and reference them as part of the LCP's LUP or IP Section 22.60.010.
- References to Article VIII: Add all cross-referenced definitions to 22.130.
- Second units: IP provisions for second units relating to density bonuses need to conform to the LUP, such as C-HS-9.
- 22.32.022: Retain reference to "agricultural production" per AG-2.
- 22.32.023: Delete the addition of "new" in (D) because agricultural homestays are permitted only within otherwise permissible dwellings and cannot be new stand-alone structures.
- 22.32.024: Add "and agricultural dwelling units" after intergenerational homes.
  - Per C-AG-5, add the phrase to Part (B), "including existing homes" to maximum agricultural dwelling unit limitations so it is clear "no more than 1 farmhouse and 2 intergenerational homes are allowable per farm tract, including existing homes."

- Edit “farm” to “farm tract” in Part (D).
- Edit “parcel” to “legal lot” in Part (F).
- Remove the addition of “without being authorized in a LCP amendment” in Part (I)(5).
- 22.32.025: Delete the addition of "considered" from the last sentence of the first paragraph in the farmhouse provisions so that all farmhouses are not de facto considered "necessary for agricultural production."
- 22.32.026: Consistent with C-AG-2, add to PPU requirements in Part (A) that processing facilities shall be "appurtenant and necessary to operation of agriculture."
- 22.32.027: Consistent with C-AG-2, add to PPU requirements in Part (A) that retail facilities shall be "appurtenant and necessary to operation of agriculture."
- 22.32.028: Delete the addition in Part (B)(1) and replace with “which exceeds 36 beds or 12 units.”
- 22.32.050: Restore “or where there would be significant impacts to coastal resources, including public views.”
- 22.32.062: Clarify as described above under LUP C-AG-2.
- 22.32.130: Retain deleted sentence because otherwise there are no structural standards for the agricultural dwelling units. Or, alternatively, reiterate the construction standards in Sections 22.32.024 and 22.32.025.
- 22.32.140: Delete non-residential agricultural districts from list of zoning districts allowing second units in Part (B) since second units are not allowed in non-residential agricultural districts.
- 22.32.150: Delete edits in Part (A), if intent is mixed use and preference is commercial.
- 22.60: Given that some Chapters and Articles are part of the LCP while others are not, all cross references need to acknowledge that while consistency with all may be required for the particular permits specified, only the specified Chapters and Articles that are part of the LCP must control CDP approvals within the coastal zone. For example, County Chapter 22.66 should be revised consistent with Chapter 22.60 which addresses the relationship between the LCP and Non-LCP portions of the development code.
- 22.62.040:
  - Restore deleted text in Part (B)(2).
  - Delete edit to (B)(5) because a use cannot be authorized if it is not allowed in a zoning district.
- 22.62.050: Regarding Tables 5-1-a through 5-1-e and standards for Principally Permitted Uses, please see page 16 of our August 21, 2015 comment letter. Any modifications to these

tables need to clarify the development standards and definitions that should be applied to determine when a use is permitted and when it is principally permitted. Further, the footnotes providing exceptions for height and setbacks, highlight the importance of retaining references to specific LUP policies. Footnotes regarding land divisions must clarify that land divisions are never a principally permitted use in any zoning district and only allow for the creation of lots that can be developed consistent with LCP policies, including the potential for increased coastal resource impacts. Please also confine development requiring a variance to permitted and conditionally permitted uses. The County indicated in recent meetings that it had a different proposed method to achieve the same results, but we have not yet seen what it is. There are many ways to achieve the same result, and we are open to other methods that can achieve the same objectives (note for example, the text of proposed IP Section 22.32.027 that could provide a model for same). Also, delete all of the added provisions allowing Planning Director flexibility/deviations footnoted in Table 5-1.

- 22.62.060: Conform to above comments regarding for profit versus not for profit in Part (B)(d)(2).
- 22.64.045:
  - Restore deleted text from Parts (2)(A)(1) and (2)(B) in order to be consistent with C-DES-2.
  - Restore deleted text from Part (3).
  - Restore deleted text from Part (4)(A).
- 22.64.050:
  - Delete the term “significant” from the added sentence in Part (A)(1)(b).
  - Edit Part (A)(1)(c)(10) to “A buffer reduction shall be considered when supported by evidence that the reduction is necessary, is the absolute minimum necessary, and will prevent impacts that degrade ESHA and will be compatible with the continuance of ESHA.”
  - Delete the term “significant” from Part (A)(1)(d).
- 22.64.060: See below.
- 22.64.080:
  - Modify language in (A)(1) to achieve consistency with State law.
  - Modify language in (A)(5) to be more liberally construed, i.e. why limit requirements of a geotechnical report to DPW’s determination, review and approval?
- 22.64.110:
  - Restore deleted text in Part (A)(2).

- Add the qualifier language from C-CD-15 to (A)(11).
- 22.64.140: Retain all deleted language. If the County would like to recommend different procedures for ensuring that water wells do not impact surrounding priority land uses, Commission staff is willing to discuss different options further.
- 22.64.150: Restore deleted text in Part (A)(6).
- 22.65.030: Delete all of the added provisions allowing Planning Director flexibility/deviations from otherwise applicable development limitations in Part (C)(1)(d), as well as similar deviations in 22.02.020(E).
- 22.65.040:
  - Restore reference to “agricultural production” in Part (A), so subsection reads consistent with C-AG-2 which requires that development is "accessory and incidental to, in support of, and compatible with agricultural production," not agricultural use. Similarly, restore "agricultural production" in 22.65.040(C)(1)(a).
  - Delete reference in Part (C)(1)(d) to siting "agricultural homestay" and "bed and breakfast facilities" in a clustered development area because per C-AG-9(F), such facilities are only allowed in otherwise allowable agricultural dwelling units and by definition LCP provisions only apply prospectively to new development.
  - Restore Parts (C)(3)(c)(4)-(7)’s limitations on land divisions in agricultural districts, for consistency with Coastal Act Section 30250 and parallel LUP limitations on land divisions in rural areas contained in C-CD-3.
  - Restore County deletion of "maintain and enhance" standard in Part (C)(4)(1) per both C-AG-7(B)(1) and C-AG-7(A).
- 22.66.010: Replace “that differ from” with “in addition to.”
- 22.66.020: Delete last sentence added, allowing the community standards of the LCP to override other provisions of LCP.
- 22.68.040:
  - Restore reference to Appendix in Part (A).
  - Delete the last sentence of (A) starting with, “Categorical Exclusions Order E-81-2...” The Appendix must include all adopted Categorical Exclusion Orders, and any relevant local zoning ordinances in effect at the time each Categorical Exclusion Order was adopted.
  - Restore “the reasons supporting the categorical exclusion determination (including evidentiary information and other materials (i.e., location, maps, site plans, etc.)” in Part (B).



- 22.68.050
  - We look forward to discussing the need for appropriate noticing, including the relationship to said notice and to any deadlines that are derived from the notice date. As we have discussed, the two are related, including the degree of notice provided and the length of time allowed for a challenge. We believe that more discussion on these points in relation to coastal permit procedures is necessary.
  - Following the example provided from San Mateo County, on the County’s Coastal Permit Exclusion form, add additional lines for the project description and add a checkbox for permit exemptions.
  - Restore the previously agreed upon language regarding noticing requirements for exemptions given that Commission review of exemptions determinations is expressly authorized by Section 30625 of the Coastal Act, and by Section 13569 of our regulations as it relates to the fundamental question of whether development is appealable or not, and by extension requires one of those types of permits or not.
  - Restore “natural” in Part (C).
  - Delete “significant” from Part (J)(3)(b).
  - We believe that further discussion regarding the way in which nuisance is described here is necessary for Part (K).
  - Restore original Coastal Commission staff recommended language related to ongoing agricultural activities in Part (L). Please see pages 10-12 of our August 21, 2015 comment letter.
  - Please note that splitting the exempt and non-exempt development into separate sections may result in additional edits to both 22.68.050 and 22.68.060 to ensure they conform with the Coastal Commission regulations. In fact, these sections are probably easier read and understood if not structured in that way, and instead structured in terms of exempt development only (i.e., if it is development in the coastal zone that is not exempt or excluded, it is development requiring a coastal permit, or potential coastal permit waiver).
- 22.68.060: Delete “as determined by the Director” in (D).
- 22.68.070:
  - We are interested in exploring with you and internally at our end how best to account for coastal permit waiver processes. Those discussions are ongoing, but not complete. For now, please restore Part (C). And note that Coastal Act Section 30624.9 provides for an expedited permit process for appealable development considered minor development through waiver of public hearing requirements.
  - Change waiver expiration back to two years.
- 22.68.080:

- Delete “or otherwise located within the California Coastal Commission’s retained coastal permitting jurisdiction” in Part (A).
- Replace “public trust lands and federal lands” in Part (C) with “lands defined above in (A)”.
- 22.70.010 and 22.70.020: Restore the previously agreed upon language regarding exemptions, and noticing requirements for exemptions, given that Commission review of exemption determinations is expressly authorized by Section 30625 of the Coastal Act. In addition, to the extent the development would be appealable to the Commission, such noticing requirements are necessary to implement section 13569 of the Commission’s regulations. Please restore the language for now. This is worth further discussion, but we note for now that this language was what came out of our prior discussions and agreements on these points.
- 22.70.030:
  - Restore exemptions and noticing for processing category determination in Part (B).
  - Restore all of Part (B)(2).
- 22.70.040: Add “unless the Applicant and County agree to an extension” to Part (C)(3).
- 22.70.050:
  - Add “at a conspicuous place, easily read by the public which is also as close as possible to the site of the proposed development” to Part (A) after “in at least one location...”.
  - Add “or for a specific geographic area” to Part (A)(3) after “for a specific area...”.
- 22.70.080 and Table 5-1:
  - Restore references to land divisions not being the principally permitted use in any zoning district in Part (B)(1)(c). Also conform Table 5-1.
  - Restore limitations on principally permitted uses so that any development that requires a variance, even though for permissible deviations, still not be considered principally permitted in Part (B)(1)(c). Also conform Table 5-1.
  - Delete “to be considered an aggrieved person” from Part (B)(2).
- 22.70.090: Restore Parts (A)(1-5) and (B)(1-2).
- 22.70.120: Change permit vesting time back to two years and restore all of the extension procedures.
- 22.70.140:
  - Add “and the necessity for a regular permit application later” to Part (D) after “including an expiration date...”.

- Add “defined as” and restore “a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential services” in Part (D)(1).
- Restore the majority of Part (D)(4) as follows, “The proposed work is the minimum amount of development necessary to abate the emergency in the least environmentally damaging manner”.
- 22.70.150: Restore all language in Part (C).
- 22.70.160: Restore deleted sentences in Part (C).
- 22.70.175: Restore Part (D).
- 22.70.190:
  - Restore all deletions made to Part (A). These modifications should be retained because they make clear that an unconditional certificate of compliance is only appropriate if the parcel was: (a) created prior to Feb 1 1973; (b) created in compliance with all laws in effect at that time; and (c) thereafter neither modified nor altered.
  - Restore all deletions made to Part (B). These modifications implement Coastal Act Section 30250 and LUP policy C-CD-3 and should be retained because they make clear that land divisions are appropriate only if: (a) the resulting parcel can be developed consistent with the LCP; (b) there is the necessary infrastructure to support development; and (c) the particular rural area has been 50% developed and the parcel would be no smaller than the average size of surrounding parcels. Same for Sections 22.65.040(C)(3)(c)(5)-(7).
- 22.130: (Note – CCC staff received a revised version of 22.130 on March 14, 2016 and has not yet fully reviewed them.)
  - Agricultural dwelling cluster: Add the "one cluster per farm tract limitation" of Section 22.32.024(B).
  - Agriculture Production Activities, Ongoing (Coastal): See pages 12-14 from our August 21, 2015 comment letter.
  - Existing: Revise definitions of “Existing,” “Existing residential second unit” and “Existing structure” so it is clear that such development must be legally existing, including having received a coastal permit if developed on or after Feb. 1, 1973.
  - Farm tract: Add the "one cluster per farm tract limitation" of Section 22.32.024(B).
  - Grading (coastal): Delete any thresholds or minimum volumes for defining grading as development requiring a coastal permit as that would not be consistent with the Coastal Act’s definition of development.
  - Redevelopment (coastal). See below.

- Stream bank: Retain original CCC suggested modifications because the thalweg cannot be used to identify the stream bank; ordinary high water mark demarcates the boundary.
- Correct all IP definitions relating to agriculture, agricultural accessory structures, agricultural processing facilities, and agricultural retail facilities so they conform to C-AG-2 and the Board’s originally adopted language for C-AG-2 that “accessory structures be appurtenant and necessary to the operation of agriculture.”
- Fix inconsistent references to Chapter 20 and Chapter 22. For example, “Implementation Plan” is defined in definitions chapter as including specified portions of Chapter 20 while IP references in Sections 22.60.010 through 22.60.030 instead refer to Chapter 22.
- Restore all deleted references to illegal lots, uses or structures as well as to coastal permit requirements for land divisions. These modifications should be retained because they make clear that an unconditional certificate of compliance is only appropriate if the parcel was: (a) created prior to Feb 1 1973; (b) created in compliance with all laws in effect at that time; and (c) thereafter neither modified nor altered. On or after Feb 1, 1973, in order to result in a legal lot, all development, including lot line adjustments and other changes in intensity of use of land required a CDP in order to be legally created.
- Revise definition of density bonus consistent with Govt. Code 65915(g).
- Revise definition of wetlands to eliminate exception for drainage ditches and conform to definition in Section 13577.
- Revise definition of appealable development to conform to Section 30603. Any local action on a CDP application for development approved in specified areas is appealable, including CDP amendment and extension requests.

### **3. Hazards.**

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- The timeframe for hazards analysis bears further discussion. For now:
  - Edit C-EH-1, C-EH-5, C-EH-17 and 22.64.060(A)(1)(a)-(b), 22.64.060(A)(2)(b), 22.64.060(B)(1)-(2) to require analysis and design for 75-100 years; or
- Redevelopment:
  - Restore deleted references to Redevelopment in C-EH-5(A)-(B) and restore C-EH-5(C).
  - Add the following permit conditions, which could be applied depending on the proposed development, to 22.64.060(B):
    1. Deed Restriction. Prior to issuance of the Coastal Development Permit, the Permittee shall submit to the Executive Director for review and approval documentation demonstrating that the Permittee has executed and recorded against the property governed by this permit a deed restriction, in a form and content acceptable to the Director: (1) indicating that, pursuant to this permit, the County of Marin has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special

conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and site plan of the property governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the property.

2. Disclosure of Permit Conditions. All documents related to any future marketing and sale of the subject property, including but not limited to marketing materials, sales contracts, deeds, and similar documents, shall notify buyers of the terms and conditions of this coastal development permit.
3. Coastal Hazards Risk. By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns:
  - (a) Assume Risks. To assume the risks to the Permittee and the property that is the subject of this CDP of injury and damage from coastal hazards;
  - (b) Waive Liability. To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards;
  - (c) Indemnification. To indemnify and hold harmless the Coastal Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards; and
  - (d) Permittee Responsible. That any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittee.
4. No Future Shoreline Protective Device. No additional protective structures, including but not limited to additional or augmented piers (including additional pier elevation) or retaining walls, shall be constructed to protect the development approved pursuant to CDP #\_\_, including, but not limited to development associated with this CDP, in the event that the approved development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence, or other natural hazards in the future. By acceptance of this CDP, the Permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235, and agrees that no portion of the approved development may be considered an "existing" structure for purposes of Section 30235.
5. Future Removal of Development. The Permittee shall remove and/or relocate, in part or in whole, the development authorized by this CDP, including, but not limited to development authorized under this CDP, when any government agency orders removal of the development in the future or when the development becomes

threatened by coastal hazards, whichever happens sooner, or if the State Lands Commission requires that the structures be removed in the event that they encroach on to State tidelands. Development associated with removal of the residence or other authorized development shall require an amendment to this CDP. In the event that portions of the development fall to the water or ground before they are removed, the Permittee shall remove all recoverable debris associated with the development from the ocean, intertidal areas, and wetlands and lawfully dispose of the material in an approved disposal site. Such removal shall require an amendment to this CDP.

6. Agreement to Bluff Retreat Monitoring. By acceptance of this permit, the Permittees agree, on behalf of themselves and all successors and assigns, to the following bluff retreat monitoring requirements for the use of the bluff-top residential parcel (APN xxx-xx-xxx): a. The Permittees agree to undertake annual bluff measurements and to submit annual measurement results to the County of Marin every year by June 1st (i.e., following the end of the previous rainy season) beginning the first year following the date of approval of this coastal development permit (i.e., the first date being 6/1/15); b. The Permittees agree to have a Certified Engineering Geologist or Geotechnical Engineer undertake periodic bluff stability analyses.
  7. Term of Authorization. This CDP authorizes xxx, until xx-xx-xxxx, or until the time when the currently existing structures warranting protection are no longer present and/or no longer require such protection, whichever occurs first. If the Permittee intends to keep the existing shoreline protection system or any portion of it in place, after xx-xx-xxxx, the Permittee must submit a complete CDP application (or complete CDP amendment application if deemed appropriate by the Executive Director) prior to xx-xx-xxxx. Otherwise, the Permittee shall submit two copies of a removal and restoration plan to the Executive Director for review and approval, where such plan shall provide for the removal of the shoreline protection system and restoration of all affected areas in a manner designed to be most protective of coastal resources, no later than xx-xx-xxxx.
- o Restore deleted definition of Redevelopment in 22.130, or at a minimum restore the following:

*Redevelopment (coastal). Development that is located outside of blufftop or shoreline areas that meet criteria A or B below:*

*A. Development that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, and/or (3) demolition of an existing bluff home or other principal structure, or portions thereof, which results in:*

*(1) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.*

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

*B. Development that consists of any alteration of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction, as per National Flood Insurance Program (NFIP) requirements administered by the Federal Emergency Management Agency (FEMA).*

- Addressing SLR impacts on other coastal resources:
  - Restore and update reference to C-EH-5(B) in C-BIO-9.
  - Modify BIO-19 to address the impacts of sea level rise on wetlands.
  - Modify C-DES-4 and C-CD-6, as necessary, to be consistent with C-EH-9, C-EH-11, and/or C-EH-12.
  - Modify C-DES-6 to address the impacts of sea level rise on utilities.
  - Modify C-CD-7 to acknowledge the impacts of sea level rise on public trust lands.
  - Modify C-PFS-6 to acknowledge the impacts of sea level rise.
  - Modify C-PK-14 to acknowledge the impacts of sea level rise.
  - Modify C-PA-2 to ensure public access is maintained along the shoreline if homes are elevated (i.e. public access underneath elevated homes).
  - Provide complementary policies to address impacts associated with a program of elevation proposed along the shoreline, including with respect to mitigation for coastal resource impacts over time; removal and restoration triggers; public trust triggers; policies to address continuation of public and/or private services; etc.
  - Add C-TR policies to address the impacts of sea level rise on county-maintained and private roads and include directives for other county agencies, such as public works, in considering sea level rise in road maintenance projects.
  - Add IP sections to implement these LUP policies.
  - Ensure that draft EH policies do not conflict with other aspects of LCP.
- Cross references:
  - Incorporate language from cross-referenced Marin County Development Code Floodplain Ordinance, including floodproofing standards, into C-EH-3(1).

- Incorporate the cross-referenced FEMA’s Flood Insurance Rate Maps and the Flood Boundary Water Maps for Marin County into the Potential Sea Level Rise Maps.
- Delete C –EH-4(4) or add C-EH-4(5) to include “For shoreline development, see Policy C-EH-5.B.” to acknowledge that shoreline hazards and geologic hazards may overlap.
- Add “defined as development located in the Potential Sea Level Rise Maps” to incorporate impacts of sea level rise into C-EH-5(B).
- Delete the addition of “new” from C-EH-5(B) in reference to shoreline protective devices.
- Restore deleted language regarding including existing shoreline protective devices in analysis for redevelopment projects in C-EH-5(A)-(B) and 22.64.060(A)(1)(a)-(b).
- Restore deleted setback language in C-EH-5(B), 22.64.060(A)(2)(b), and restore 22.64.060(B)(5).
  - Restore deleted language in C-EH-5(B) regarding the assessment of impacts of elevating structures on public access, impacts over time, ingress/egress to the structure, and provision of public services.
  - Restore deleted language in C-EH-11 and C-EH-12 regarding the protection of community character and scenic resources and add similar language to C-EH-9.
- Submit “Potential Sea Level Rise Maps,” maps of natural grade for parcels in Marin County, and renderings of the proposed maximum height changes, to facilitate review of proposed policies C-EH-8 through C-EH-12.
- Change C-EH-13(1) to “prior to enactment of the California Coastal Act (January 1, 1976)”.
- Restore deleted portions of C-EH-13(8).
- Add a date for a subsequent LCPA to convert Programs C-EH-22.a(3)-(6) into Policy.
- Delete the last paragraph from C-EH-3, the last sentence of C-EH-5(B), and restore ‘only’ and delete ‘with a coastal permit waiver’ from C-EH-25 because CDP procedures are addressed through 22.68 and 22.70 of the IP.
- Restore deleted sentences from 22.64.060(A)(1)(a), starting with “The County’s hazard mapping program...”
- Delete addition of “flood, blufftop erosion, shoreline erosion” from 22.64.060(A)(1)(b), because geologic and other hazards are defined in 22.64.060(A)(1)(a) and a subset should not be introduced in (b).
- Restore deleted sentences in 22.64.060(A)(1)(b), starting with “The Report shall be required to demonstrate that...”.
- Delete 150 feet from the definition of Blufftop (coastal) in 22.130.



Please note that we will have additional comments as we continue our review of County staff's draft documents, particularly relating to hazards and draft IP provisions, as well as the previously transmitted LUP and IP materials relating to agriculture. It is our understanding that County staff will publish its staff report on the revised LCP update on March 31<sup>st</sup>, to which we will respond via comment letter in advance of the April 19<sup>th</sup> Board of Supervisors hearing. It is also our understanding that the County hopes to submit the LCPA to the Commission by April 22<sup>nd</sup>, 2016. Commission staff looks forward to working with you and other members of the County on this project. Please do not hesitate to contact Shannon Fiala of my staff at (415) 904-5266 or myself at 415-904-5290 if you have any questions regarding the above comments.

Sincerely,



Nancy Cave  
District Manager  
North Central Coast District

Issue	Existing Certified LCP	County Proposed	CCC Suggested Modifications
<p><b>Areas Subject to Hazards: The certified LCP defines areas subject to hazards using maps and descriptions</b> and includes all lots within the Seadrift sandspit including the Patios, Calles, and Seadrift Subdivision.</p> <p>The proposed LCP more narrowly defines areas subject to hazards and mainly relies on maps, including exclusively relying on maps to identify flood hazard areas, including the Potential Sea Level Rise Maps which have not been finalized or adopted by the Board. Shoreline development is more narrowly defined to a subset of FEMA areas which leaves out some low lying areas that the current LCP captures. The extent of the flood hazard areas is unclear without the final Sea Level Rise Maps.</p> <p>The CCC staff suggested modifications ensure all areas potentially subject to hazards are included and makes clear that mapping alone cannot identify areas subject to hazards. Shoreline development is defined more broadly to include FEMA, sea level rise flood areas, and other low lying areas exposed to flooding and erosion. Blufftop development is also defined in the LUP. The intent is to provide as much clarity as possible on where potential hazards may be encountered.</p>	<p><u>UNIT 1: LCP Policies on Shoreline Protection and Hazard Areas:</u>  4...Existing geologic information indicates this geologic hazard policy shall apply to new development (excluding improvements to existing structures that would not result in an increase of 50 percent or more of internal floor area of the structure) on lots located in the following areas:</p> <ul style="list-style-type: none"> <li>• <b>Lands located in the "Alquist Priolo" earthquake hazard zones</b>, as said zones may be amended.</li> <li>• <b>Development within 300 feet of the mean high tide of the sea.</b></li> <li>• Development on <b>parcels with slopes averaging over 35 percent.</b></li> <li>• <b>All lots within the Seadrift sandspit to include the Patios, Calles and Seadrift Subdivision.</b></li> </ul> <p>(Those lands covered by this "geologic hazards" policy are shown on the <b>geologic hazard maps</b> on file in the Marin County Planning Department)</p> <p><u>UNIT 1: LCP Policies on Shoreline Protection and Hazard Areas</u>  1...The retreat rate will be determined by a complete <b>geotechnical investigation</b> which will be required if one or both of the following conditions are met: <b>The building or proposed development site is within 150 feet of the blufftop, or the site is located in stability zones 2, 3 or 4 as indicated on the Slope Stability of the Bolinas</b></p>	<p><b>C-EH-3 Flood Hazards...</b>  <b>Flood hazard areas are defined as: 1) those areas shown on Federal Emergency Management Agency (FEMA) "Flood Insurance Rate Maps" (FIRM) and "Flood Boundary Water Maps" for Marin County which have been determined to be subject to flooding from a flood which has a one percent chance of occurrence in any one year (further designated as Zone A, AO, A1-30, AE, A99, AH, VO, V1-V30, VE, or V); and 2) those areas potentially inundated by sea level rise as shown on "Potential Sea Level Rise Maps" prepared and adopted by the County of Marin.</b></p> <p><b>C-EH-4 Geologic Hazards.</b> Require applicants for development in areas potentially subject to geologic hazards (which include Alquist Priolo earthquake hazard zones and areas subject to landslides, liquefaction, steep slopes averaging greater than 35%, and unstable slopes regardless of steepness)</p> <p><b>Shoreline Development.</b> Ensure that new shoreline development (defined as development located in a VO, V1-V30, VE or V zone as mapped by the Federal Emergency Management Agency [FEMA])</p> <p><b>22.64.060 Environmental Hazards (A) 1.</b> Environmental Hazards Evaluation  a. Initial Site Assessment. The reviewing authority shall conduct an initial site assessment screening of all Coastal</p>	<p>C-EH-1 Areas Potentially Subject to Hazards. Areas potentially subject to hazards include high geologic, flood, erosion and fire hazard areas, including but not limited to the areas subject to: Alquist-Priolo earthquake hazard zones and areas subject to landslides, liquefaction, steep slopes averaging greater than 35%, and unstable slopes regardless of steepness; episodic and long-term shoreline and bluff erosion and retreat, high velocity wave and tidal action from storms or high seas, ocean and stream inundation and flooding, tsunamis, and rising sea levels; and combinations of all of the above. Many of these areas are mapped in this LCP, including as shown on LCP Maps 9-15, and 18. Such maps can be used as a resource for identification of areas potentially subject to hazards; however, absence of mapping alone cannot be considered absence of hazard and local site conditions must be examined using the best available science.  <b>Shoreline development is defined as: (1) development located on parcels shown on adopted Federal Emergency Management Agency (FEMA) "Flood Insurance Rate Maps" (FIRM) and "Flood Boundary Water Maps" for Marin County that are subject to coastal flooding from a flood which has a one percent chance of annual occurrence ; (2) development in areas potentially subject to inundation by sea level rise based on best available science at the time of the application, but at a</b></p>

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<p><b>Avoidance of Hazard Areas: The certified LCP prioritizes the avoidance of development in hazardous areas as illustrated in grading, new development and land use, Stinson Beach, shoreline protection and hazard area, and floodplain development policies. These policies prohibit development in the 100-year floodplain of Easkoot Creek, implement downzoning to minimize flood hazards and require some</b></p>	<p>Peninsula Study Area map which accompanies Wagner's 1977 report, "Geology for Planning, Western Marin County" . . .</p> <p><u>UNIT II: LCP Policies on New Development and Land Use:</u></p> <p>5. (a) Hazards. An applicant for development in an area potentially subject to geologic or other hazards as mapped by the County, including Alquist-Priolo earthquake hazards zones, areas subject to tsunami runup, landslides, liquefaction, beach or bluff erosion, steep slopes averaging greater than 35%, or flood hazard areas...</p> <p>22.56.130I (L)(1) Prior to the issuance of a coastal development permit for projects located in areas depicted by the Unit I LCP geologic hazards maps, the owner (applicant) shall...</p> <p>(2) Floodplain Development. Coastal project permit applications adjacent to streams which periodically flood shall...</p> <p><u>UNIT I: Grading:</u> The following standards shall apply to projects involving 150 cubic yards or more of grading and excavation:</p> <p>24. Development shall be designed to fit a site's topography and existing soil, geological, and hydrological conditions so that grading, cut and fill operations, and other site preparation are kept to an absolute minimum and natural landforms</p>	<p>Permit applications to determine whether the site is or will be subject to geologic or other hazards Geological or other hazards are defined to include Alquist-Priolo earthquake hazards zones; landslides, liquefaction, shoreline retreat, bluff erosion steep slopes averaging greater than 35 percent; unstable slopes regardless of steepness; and flood hazard areas, including those areas potentially inundated by future sea level rise. The screening shall include as applicable a review of available reports, resource maps, aerial photographs, site inspection, and the County's adopted hazards maps.</p>	<p>minimum including properties shown on LCP Map 15; and (3) development, whether shown in the areas identified on the maps in subsection (1) and (2) of this section or not, that is located in areas potentially subject to shoreline hazards, including those areas identified pursuant to the hazards evaluation in C-EH-3 (including but not limited to flooding, inundation, storm waves, high seas, tidal scour, tsunamis, and the interaction of same, including in relation to sea level rise).</p> <p>C-EH-6 Standards for Blufftop Development. Blufftop development is defined as development located on parcels within 300 feet of a blufftop edge.</p>
<p><b>Avoidance of Hazard Areas: The certified LCP prioritizes the avoidance of development in hazardous areas as illustrated in grading, new development and land use, Stinson Beach, shoreline protection and hazard area, and floodplain development policies. These policies prohibit development in the 100-year floodplain of Easkoot Creek, implement downzoning to minimize flood hazards and require some</b></p>	<p><u>UNIT I: Grading:</u> The following standards shall apply to projects involving 150 cubic yards or more of grading and excavation:</p> <p>24. Development shall be designed to fit a site's topography and existing soil, geological, and hydrological conditions so that grading, cut and fill operations, and other site preparation are kept to an absolute minimum and natural landforms</p>	<p>C-BIO-7 Coastal Dunes. Prohibit development in coastal dunes to preserve dune formations, vegetation, and wildlife habitats. Prevent overuse in dune areas by mechanisms such as restricting parking, and directing pedestrian traffic through signage and sand fencing to areas capable of sustaining increased use. Prohibit motor vehicles in dune areas except for emergency purposes, and prohibit motor</p>	<p>C-EH-2 Avoid and Minimize Hazard Risks and Related Impacts. Development shall be avoided in areas potentially subject to hazards to the maximum feasible extent. When development in such areas cannot be feasibly sited in a manner that avoids such areas entirely, then such development shall be sited, designed, and property while mitigating the development's impacts to coastal</p>

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<p><b>hazardous areas to be maintained in open space</b> (see also blufftop and shoreline setbacks sections below).</p> <p><b>The County is not proposing any policies that provide more generally for avoidance of hazard areas as first step in minimizing risk.</b> The proposed LCP in part prioritizes the avoidance of development in hazardous areas adjacent to the shoreline as illustrated in biology and community development policies that prohibit development in sensitive coastal resource areas, require appropriate buffers, and prohibit land divisions on shorefront parcels. <b>However, avoidance is not represented in other hazardous areas such as inland areas threatened by sea level rise</b> (see also blufftop and shoreline setbacks sections below).</p> <p>The CCC staff suggested modifications priorities avoidance of hazards and when avoidance is not an option, requires siting, design and conditions to mitigate impacts to coastal resources, with a particular emphasis on public recreational beach access.</p>	<p>are preserved. <b>Areas of a site which are not suited to development because of known soil, geologic, flood, erosion or other hazards that exist to a degree that no amount of corrective work consistent with these policies, including but not limited to the protection of natural landforms, can eliminate or substantially reduce the hazards to the property endangered thereby shall remain in open space.</b></p> <p><u>UNIT 1: Stinson Beach (excluding Seadrift):</u>  30. The properties presently Zoned R-3 along Shoreline Highway shall be rezoned to R-2 in order to <b>minimize flood hazards and the adverse impacts on Easkoot Creek</b> which would result from such development (Easkoot Creek runs across the subject properties). Resignation of the R-3 properties to R-2 will also assure development consistent with the existing character of the community.</p> <p><b>Development shall not be permitted within the 100-year floodplain of Easkoot Creek</b> and shall otherwise conform with LCP Policies on septic systems and stream protection.</p> <p><u>UNIT 1: LCP Policies on Shoreline Protection and Hazard Areas:</u> <b>4. Many of the building sites in Unit 1 are characterized by one or more potential geologic hazards.</b> The development of residential structures on such parcels may be subject to often sudden and destructive geologic phenomenon. <b>The</b></p>	<p>vehicles in non-dune beach areas except for emergency and essential maintenance purposes and where previously coastal permitted.</p> <p>C-BIO-9 Stinson Beach Dune and Beach Areas. <b>Prohibit development that would adversely impact the natural sand dune formation and sandy beach habitat in the areas west of the paper street Mira Vista and the dry sand areas west of the Patios. Prohibit development west of Mira Vista, including erection of fences, signs, or other structures, to preserve the natural dune habitat values, vegetation and contours, as well as the natural sandy beach habitat.</b> Continue to pursue a land trade between the lots seaward of Mira Vista and the street right-of-way to more clearly establish and define the public beach boundaries.</p> <p><b>Site development of other shorefront lots within the Stinson Beach and Seadrift areas outside of the natural sand dune formations, consistent with LUP Policy C-BIO-7 (Coastal Dunes).</b></p> <p><b>Where no dunes are evident, any new development on shorefront lots shall be set back behind the first line of terrestrial vegetation as far as is necessary to demonstrate required stability and hazards protection, avoid the need for protective works, protect sandy beach habitat, and provide a buffer area between private and public use areas to protect both the scenic and visual character of the beach, and the</b></p>	<p><b>resource. Mitigation shall include measures to avoid such impacts if feasible, particularly impacts related to public recreational beach access.</b></p> <p><i>(Recommending no modifications to County proposed policies BIO-7, BIO-9, and CD-10.)</i></p>

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	<p>County of Marin does not encourage new residential development of such parcels and expressly states that the issuance of a coastal development permit for such property does not warrant said property's safety_ from geologic hazards. Further, the County of Marin will not accept liability for subsequent personal or property damage caused by geologic processes on said properties...</p> <p><u>UNIT II: LCP Policies on New Development and Land Use:</u></p> <p>6. (a) Development shall be designed to fit a site's topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading, cut and fill operations, and other site preparation are kept to an absolute minimum. <b>Natural features, landforms, and native vegetation shall be preserved to the maximum extent feasible. Areas of a site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall be kept in open space.</b></p> <p>22.56.1301(C) Grading and Excavation.  <b>...Development shall not be allowed on sites, or areas of a site, which are not suited to development because of known soil, geology, flood, erosion or other hazards that exist to such a degree that corrective work, consistent with these policies (including but not limited to the protection of natural landform), is unable to eliminate</b></p>	<p><b>public right of access to the use and enjoyment of sand areas.</b></p> <p>C-CD-10 Division of Beachfront Lots. <b>No land division of beachfront lots shall be permitted</b> in recognition of the cumulative negative impacts such divisions would have on both public and private use of the beach, except if a finding is made that such a land division will be consistent with the development of shoreline lots within the Stinson Beach and Seadrift areas in Biological Resources and Policy C-BIO-9. Similarly, the erection of fences, signs, or other structures seaward of any existing or proposed development and the modification of any dune or sandy beach area shall not be permitted except as provided in the Environmental Hazards policies in order to protect natural shoreline processes, the scenic and visual character of the beach, and the use of dry sand areas in accordance with Section 30211 of the Coastal Act.</p>	



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<p><b>Blufftop Development-Economic Life/Safety Requirements: The certified LCP requires that development on bluffs be setback a sufficient distance to be safe for their economic life expectancies (at least 50 years) to eliminate the need for shoreline protective works taking into account historical and protected bluff retreat.</b></p> <p>The proposed LCP requires blufftop setbacks to ensure structural integrity for a minimum of 100 years without the need for shoreline protective devices. The proposed LCP requires that retreat rate consider historical bluff retreat and acceleration of bluff retreat to continued and accelerate sea level rise. <b>Sea level rise is based on estimates from the maps which are not final or adopted by the Board.</b></p> <p>The CCC suggested modifications require blufftop setbacks to ensure structural</p>	<p><b>hazards to the property endangered thereby.</b></p> <p>(L)(2) Floodplain Development. Coastal project permit applications adjacent to streams which periodically flood shall include a site plan that identifies the one hundred-year floodplain (as described by the Army Corps of Engineers). <b>Development of permanent structures and other significant improvements shall not be permitted within the limits of the one hundred-year floodplain.</b></p> <p><u>UNIT I: LCP Policies on Shoreline Protection and Hazard Areas 1.</u>New structure shall be set back from the Bolinas and Muir Beach bluffs a sufficient distance to ensure with reasonable certainty that they are not threatened from cliff retreat within their economic life expectancies...</p> <p><u>UNIT II: LCP Policies on New Development and Land Use:</u></p> <p>5. (a) An applicant for development in an area potentially subject to geologic or other hazards...shall be required to demonstrate that the area of construction is stable for development, the development will not create a hazard or diminish the stability of the area, and the development will not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...</p>	<p>C-EH-5 New Shoreline and Blufftop Development</p> <p>(A) ...Except as provided for by Policies C-EH-7, C-EH-15, and C-EH-16, new blufftop development shall be set back from the bluff edge a sufficient distance to ensure its stability and structural integrity for a minimum of 100 years and to eliminate the need for shoreline protective devices...</p> <p>The predicted bluff position shall be evaluated considering not only historical bluff retreat data, but also acceleration of bluff retreat due to continued and accelerated sea level rise, and other climate impacts according to potential sea level rise estimates prepared and adopted by the County of Marin for use in coastal hazards analyses.</p>	<p>C-EH-6 Standards for Blufftop Development. Blufftop development is defined as development located on parcels within 300 feet of a blufftop edge.</p> <p><b>1. Blufftop development shall be set back a sufficient distance from the blufftop edge to avoid hazards to the maximum feasible extent while ensuring stability and structural integrity in light of potential bluff erosion and other hazards for at least the next 100 years without reliance on shoreline protective devices. Existing shoreline protective devices shall not be countenanced when establishing the setback.</b></p> <p><b>2. If there is inadequate space to feasibly meet such setback requirements, including through modifications to the project design (e.g. proposing a smaller structure), blufftop development may be set back a lesser distance from the blufftop edge provided such setback</b></p>

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<p>integrity for a minimum of 100 years without the need for shoreline protective devices. If the setbacks are not possible, then it allows for a reduced setback to no less than 25 years without reliance on shoreline protective devices. It clarifies that existing shoreline protective devices shall not be countenanced when establishing the setback. It removes reference to the sea level rise maps but still requires consideration of accelerated sea level rise into bluff retreat analysis.</p>	<p>(b) In coastal bluff areas, new structures shall be <b>set back a sufficient distance from the bluff edge to ensure with reasonable certainty that they are not threatened by bluff retreat within their expected economic lifespans (50 years)</b>...</p> <p>22.56.130I (K) 1. Bluff Top Setbacks. <b>New structures shall be set back from coastal bluff areas a sufficient distance to ensure with reasonable certainty that they are not threatened from cliff retreat within their economic life</b></p> <p><u>UNIT I: LCP Policies on Shoreline Protection and Hazard Areas</u>  <b>1...Adequate setback distances will be determined from information contained in required geologic reports and the setback formula established below.</b>  These setbacks will be of <b>sufficient distance to eliminate the need for shoreline protective works.</b> In view of the fact that the retreat rate varies markedly along the cliffs, and that the life expectancy of different kinds of structures varies greatly, the <b>following formula will be used to determine setbacks</b> from the bluff for new structures:</p> <p><b>Setback (meters) = structure life (yrs.) X retreat rate (meters/yr.)</b> In areas where <b>vigorous sliding is taking place, an additional 15 meters should be added as a safety factor.</b></p> <p><u>UNIT II: LCP Policies on New</u></p>		<p>is the maximum feasible and ensures stability and structural integrity in light of potential hazards <b>for no less than 25 years without reliance on shoreline protective devices.</b></p> <p>The required hazards evaluation shall address the requirements of that policy and this one, and shall also include a quantitative slope stability analysis by a geotechnical engineer demonstrating a minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, k=0.15) whereby safety and stability must be demonstrated for the predicted position of the bluff and blufftop edge following bluff recession over the required timeframe (i.e., <b>100 years, or possibly less pursuant to C-EH-6(2)</b>). The <b>predicted bluff and blufftop edge position shall be evaluated considering not only historical bluff retreat data and slope stability data, but also acceleration of bluff retreat due to continued and accelerated sea level rise, and other climate impacts.</b></p>

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	<p>Development and Land Use:  <b>5 (b)...</b>The County shall determine the required setback based on information submitted by the applicant, staff investigation, and a geologic report which may be required. The setbacks will be of sufficient distance to eliminate the need for shoreline protective works.</p> <p>(d) New development shall be sited and designed so that no protective shoreline structures (e.g. seawalls, groins, breakwaters) are or will be necessary to protect the building from erosion or storm damage during its expected economic lifespan (50 years). The applicant may be required to submit a professional geologic report demonstrating that the project conforms to this policy.</p> <p>22.56.130I (K) 1. Adequate setback distances <b>will be determined from information contained in required geologic reports and the setback formula established below.</b> These setbacks will be of sufficient distance to eliminate the need for shoreline protective works. The following formula will be used to determine setbacks from the bluff for new structures:</p> <p>Setback (meters)= structure life (years, normally at least 40 years) X retreat rate (meters/year). In areas where vigorous sliding is taking place, an additional 15 meters should be added as a safety factor.</p>		



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<p><b>Redevelopment:</b> The certified LCP requires development be evaluated under the geologic hazard policies when improvements would result in an increase in 50% or more of internal floor area in hazardous areas, including the Seadrift Sandspit. <b>The certified LCP only exempts repair and maintenance activities that do not result in an addition to or enlargement of the object and development outside the appeal jurisdiction that would result in a 10 percent increase in internal floor area or an additional story. The certified LCP also requires that expansion or enlargement of nonconforming uses or new structures need to conform to the entire LCP.</b></p> <p>The proposed LCP requires a CDP for the replacement of 50% or more of a single family residence. Under the proposed LCP, repair and maintenance involving demolition and/or replacement of 50 percent or more of a nonconforming structure, is not permitted unless the entire structure is brought into</p>	<p>22.56.130I (K) (1) The retreat rate shall be determined by a geotechnical investigation conducted by a professional engineer or registered geologist which explicitly examines the site's geotechnical capability to adequately support the proposed development. <b>The report shall include the historic and projected rate(s) of bluff retreat attributable to wave and/or surface runoff erosion. expectancies.</b></p> <p><u>UNIT I: LCP Policies on Shoreline Protection and Hazard Areas:</u> 4...Existing geologic information indicates <b>this geologic hazard policy shall apply to new development (excluding improvements to existing structures that would not result in an increase of 50 percent or more of internal floor area of the structure)</b> on lots located in the following areas:</p> <ul style="list-style-type: none"> <li>• Lands located in the <b>“Alquist-Priolo” earthquake hazard zones</b>, as said zones may be amended.</li> <li>• <b>Development within 300 feet of the mean high tide of the sea.</b></li> <li>• Development on parcels <b>with slopes averaging over 35 percent.</b></li> <li>• <b>All lots within the Seadrift sandspit to include the Patios, Calles and Seadrift Subdivision.</b></li> </ul> <p><b>(Those lands covered by this “geologic hazards” policy are shown on the geologic hazard maps on file in the Marin County Planning Department)</b></p> <p>22.56.050I The following projects in the C</p>	<p>Repair and Maintenance definition: ... Development which does not result in an addition to, enlargement or expansion of the object of the repair and maintenance. <b>Unless destroyed by a disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin, or any other structure is not considered repair and maintenance, but instead constitutes a replacement structure requiring a Coastal Permit.</b></p> <p>22.70.160 (D) Nonconforming Structures. A nonconforming structure means a structure that was lawfully erected prior to the adoption, revision, or amendment of the certified LCP, but that does not conform with standards for lot coverage, setbacks, height, distance between structures, or floor area ratio prescribed in the certified LCP. <b>Nonconforming structures may be repaired and maintained. However,</b></p>	<p>C-EH-4 Coastal Redevelopment. An existing structure located <b>in an area potentially subject to hazards</b> shall be considered redeveloped (and deemed new development under this LCP that must be made to conform with all applicable LCP policies), when such development consists of: (1) alteration (including interior and/or exterior remodeling and renovations, demolition or partial demolition, etc.) of <b>50% or more of major structural components</b> (including exterior walls, floor and roof structure, and foundation) considered individually (i.e., percentages are calculated by the individual structural component being altered, and are not additive between different structural components); (2) additions and alterations to such development that lead to a <b>50% or more increase in floor area for the development;</b> and/or (3) additions and alterations to such development that costs <b>50% or more of the market value of the existing structure</b> before construction. Changes to floor area and individual major</p>

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<p>conformance with the policies and standards of the LCP. <b>The proposed LCP does not provide any clarification on how to calculate 50% under these policies and standards and does not clarify whether this calculation is cumulative or not.</b></p> <p>CCC staff suggested modifications define redevelopment in areas only subject to hazards consistent with recent Commission practice, when 50% or more of major structural components are replaced, there is a 50% or more increase in internal floor area, or development costs are more than 50% of the market value of the structure. These calculations are cumulative from January 1, 1977. The IP outlines specific details on how to calculate 50%. The intent is to identify when a project is no longer a repair or maintenance project but rather a new project requiring increased evaluation under the LCP. Also adds in FEMA valuation criterion, including as requested by the County. Application is limited to areas potentially subject to hazards, and is not applicable in other parts of the County.</p>	<p>districts shall be exempt from the requirements of a coastal project permit:</p> <p><b>(A) Repair and maintenance activities that do not result in the addition to or enlargement or expansion of the object of such repair or maintenance, except that such repair and maintenance of seawalls, breakwater groins, bluff retaining walls or similar shoreline work shall require a coastal project permit;</b></p> <p><b>(D) 4. Additions resulting in an increase of less than ten percent of the internal floor area of an existing structure;</b></p> <p>22.56.055IThe following types and classes of improvements and additions, in addition to those listed in Section 22.56.0401, shall require a coastal project permit:</p> <p><b>(B) Any significant alteration of land forms including removal or placement of vegetation on a beach wetland or sand dune, or within one hundred feet of the edge of a coastal bluff, or stream or in areas of natural vegetation designated by the local coastal program as significant natural habitat;</b></p> <p><b>D. On property located within the appeal jurisdiction of the California Coastal Commission pursuant to Public Resources Code Sections 30519 (b) and 30603 (a)(1) and (a)(2), an improvement that would result in an increase of ten percent or more of internal floor area of the existing structure, or constitute an additional improvement of ten percent or less where an improvement to the structure has previously been</b></p>	<p><b>repair and maintenance involving demolition and/or replacement of 50 percent or more of the nonconforming structure, is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP.</b> For blufftop and shoreline structures, see Subsection F, below...</p> <p>E. Additions and Improvements. <b>Improvements which enlarge and/or expand a nonconforming structure, including additions, may be authorized, provided that the additions and/or improvements themselves comply with the current policies and standards of the LCP.</b> However, <b>improvements involving demolition and/or replacement of 50 percent or more of the existing structure, are not permitted unless the entire structure is brought into conformance with all applicable LCP policies.</b> For blufftop and shoreline structures, see Subsection F, below.</p> <p>(F) Blufftop and Shoreline Development. For nonconforming structures located on a blufftop or along the shoreline, including such structures that are nonconforming with respect to required blufftop and shoreline setbacks, <b>such structures may be repaired, maintained, and improved consistent with Subsections D and E, above.</b></p>	<p>structural components and the costs of such changes are measured <b>cumulatively over time starting from January 1, 1977.</b></p> <p><b>For the purposes of this definition:</b> An exterior wall is considered to be altered 50% or more when any of the following occur either above or below grade: (a) Exterior cladding and/or framing systems are altered in a manner that requires removal and/or replacement of 50% or more of the elements of those cladding and framing systems, normally considered as linear length of wall. (b) Reinforcement is needed for any remaining portions of the wall to provide structural support in excess of 50% of existing support elements (e.g. addition of 50% or more of beams, shear walls, or studs whether alone or alongside the existing/retained elements). (c) A previously exterior wall becomes an interior wall as a result of the development. (d) On multi-story structures, the extent of alteration to the linear area of the exterior walls on each story shall be determined to determine whether 50% or more of the total exterior walls have been altered. A floor or roof structure is considered to be altered 50% or more when any of the following occur:</p> <p>(a) The roof or floor framing is altered in a manner that requires removal and/or replacement of structural elements (e.g. trusses, joists, rafters) supporting 50% or more of the square footage of the roof or floor. (b) The roof or floor structural</p>

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	<p><b>undertaken pursuant to this section, and/or the construction of an additional story (including lofts) in an existing structure;</b></p> <p><b>22.57.1291 Nonconforming Uses. All uses which were lawfully established prior to the application of this district shall be conforming uses to the extent they existed at the time of application of these regulations; provided, however that the expansion or enlargement of such preexisting uses and/or the establishment and/or construction of any new structures and uses subsequent to the application of these regulations shall conform to this chapter.</b></p>		<p>framing system requires additional reinforcement to any remaining portions of the roof or floor system to provide structural support (e.g. addition of 50% or more of beams, joists, and/or rafters, etc., whether alone or alongside existing/retained system elements). A foundation is considered to be altered 50% or more when any removal, replacement or reinforcement is done on any of the following: (a) 50% or more of the horizontal surface area of a slab foundation. (b) 50% or more of the floor area of a structure supported by a pier/post and/or caisson/grade beam foundation. (c) 50% or more of a perimeter foundation. (d) 50% or more of other foundation types (e.g. piers), or the total alteration where a structure has multiple foundation types. Major structural component alterations generally do not include changes to roof coverings; replacement of glass or doors in existing window or door openings; replacement of window or door framing when the size and location of the window/door remains unchanged; repair of roofs or foundations without any change to structural supporting elements; changes to exterior siding; repair, maintenance, and replacement of chimneys; and interior changes to non-structural interior walls and sheetrock, insulation, fixtures, and mechanical, electrical and plumbing elements, except when such interior changes meet the threshold for redevelopment as defined by the market valuation criteria.</p>

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<p><b>Shoreline Development-Economic life/setback requirements: The certified LCP requires that development in areas potentially subject to geologic or other hazards (which would include areas along the shoreline) not require construction of shoreline protective devices.</b> The certified LCP requires setbacks from dunes, beaches, and wetlands to protect coastal resources and public access and limits development that can occur in these sensitive areas. The IP also requires that repair and maintenance activities to shoreline structures provide for similar beach, dune, wetland, public access, and visual resource protections.</p> <p><b>The proposed LCP does not require setbacks as a first measure to avoid hazards and instead relies on elevation.</b> The proposed LCP requires that shoreline development be safe from FEMA's 100-year flood plus 3 feet of sea level rise without the need for new shoreline protective devices. Minimum floor elevations are determined by FEMA BFE plus up to 3 feet as depicted on the County's sea level rise maps. If development is in a sea level rise zone but not in a FEMA zone minimum floor elevation relies on County's sea level rise maps. <b>Finalization and adoption of the maps is essential to the implementation of these policies.</b></p> <p>The CCC suggested modifications requires that shoreline development be safe from</p>	<p><u>UNIT II: LCP Policies on New Development and Land Use:</u></p> <p>5. (a) An applicant for development in an area potentially subject to geologic or other hazards...shall be required to demonstrate that the area of construction is stable for development, the development will not create a hazard or diminish the stability of the area, and the development will not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...</p> <p><u>UNIT I: LCP POLICIES ON NATURAL DUNE AND SANDY BEACH PROTECTION</u></p> <p>19. In order to preserve the natural sand dune formation and sandy beach habitat, and to protect potential prescriptive rights over the dry sand areas west of the Patios, development of the existing lots west of the paper street Mira Vista shall not be permitted. These lots shall be rezoned from R-1 to RSP-2.0, and contiguous ownerships across Mira Vista shall be consolidated in order to assure protection of the existing sandy beach areas. <b>No development, including erection of fences, signs, or other structures, shall be permitted west of Mira Vista in order to preserve both the natural dune habitat values, vegetation and contours, as well as the natural sandy beach habitat, and to protect potential public prescriptive rights over the area.</b></p>	<p>C-EH-5 New Shoreline and Blufftop Development</p> <p>(B) ...is safe from shoreline erosion and flooding hazards, taking into account 3 feet of projected sea level rise, without the need for new shoreline protective devices.</p> <p>...Allow the use of caisson/pier foundations and elevation (including if elevation of the structure is necessary to meet Federal Emergency Management Agency (FEMA) flood requirements. Any approval for new shoreline development shall be accompanied by conditions necessary to achieve compliance with this policy</p> <p>C-EH-8 Minimum Floor Elevations in Flood Hazard Areas. For new development within Flood Hazard Areas as defined by Policy C-EH-3, the minimum elevation of construction shall incorporate additional height to accommodate potential sea level rise as follows:</p> <p>Within flood hazard areas mapped by the Federal Emergency Management Agency (FEMA), additional elevation up to a maximum of three feet to accommodate identified sea level rise as depicted on "Potential Sea Level Rise Maps" prepared and adopted by the County of Marin, shall be added to the Base Flood Elevation (BFE) when establishing the minimum elevation required for proposed construction.</p>	<p>C-EH-5 Standards for Shoreline Development. 1. Shoreline development shall be set back a sufficient distance, and/or sited on an existing elevated portion of the site, and/or designed to reduce the size of the structure or structure footprint (unless the project consists solely of raising an existing structure the minimum amount necessary to meet flood elevation requirements), in such a way to avoid flooding related to the current estimated 100-year storm event, as adjusted for sea level rise if applicable, to the maximum feasible extent without reliance on shoreline protective devices. Existing shoreline protective devices shall not be incorporated into analyses when establishing appropriate siting. The predicted shoreline position shall be evaluated considering not only historic shoreline erosion, but also expected acceleration of shoreline erosion due to continued and accelerated sea level rise.</p> <p>2. If there is inadequate space to feasibly meet such siting and design requirements, development shall be sited on the portion of the site that best meets these requirements, and floodproofed and/or elevated via pier/caisson foundations (using the minimum number of piers/caissons feasible) so that the lowest finished floor (in the case of floodproofing) or lowest horizontal members (in the case of elevation) are located at an elevation equal to the elevation of the estimated</p>



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<p>FEMA's 100-year flood plus 3 feet of sea level rise without the need for new shoreline protective devices. It clarifies that existing shoreline protective devices shall not be countenanced when establishing the setback. The suggested modifications also for elevation and/or floodproofing if there is inadequate space on the property for setbacks. Setbacks are not required when homes are solely elevating to comply with flood hazard requirements. Minimum floor elevations are determined by FEMA 100 year flood plus 3 feet of sea level rise instead of the maps.</p>	<p>20. Development of other shorefront lots within the <b>Stinson Beach and Seadrift areas shall assure preservation of the natural sand dune formations in order to protect environmentally sensitive dune habitat and vegetation and to maintain the natural protection from wave runoff that such natural dunes provide. Where no dunes are evident, any new development on shorefront lots shall be set back behind the first line of terrestrial vegetation to the maximum extent feasible, in order to minimize the need for protective works, to protect sandy beach habitat, and to provide a buffer area between private and public use areas in order to protect both the scenic and visual character of the beach, and the public right of access to the use and enjoyment of dry sand areas.</b></p> <p>21... 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 Chapter III of the LCP in order to protect natural shoreline processes, the scenic and visual character of the beach, and the public and private use of dry sand areas in accordance with Section 30211 of the Coastal Act.</p> <p><u>UNIT II: LCP Policies on Natural Resources</u>  <b>4(d) A buffer strip 100 feet in width, minimum, as measured landward from the edge of the wetland, shall be</b></p>	<p>Within areas that are not within FEMA mapped flood zones but are shown as potentially inundated by sea level rise identified on "Potential Sea Level Rise Maps" prepared and adopted by the County of Marin, new development shall be constructed such that the lowest finished floor exceeds the highest natural elevation of the ground surface next to the proposed walls of the structure prior to construction (i.e., "highest adjacent grade") by an amount equal to or greater than the projected sea level rise as depicted on the above referenced maps.</p>	<p>100-year storm flood plus 3 feet (to address sea level rise).</p>

Issue	Existing Certified LCP	County Proposed	CCC Suggested Modifications
	<p>established along the periphery of all wetlands. Where appropriate, the required buffer strip may be wider based upon the findings of the supplemental report required in (e) Development activities and uses in the wetland buffer shall be limited to those specified in (a) and (b) above.</p> <p>(e) As part of the application for a coastal development permit on any parcel adjacent to Tomales Bay, except where there is no evidence of wetlands pursuant to the Coastal Commission's guidelines, the applicant shall be required to submit supplemental biological information prepared by a qualified ecologist at a scale sufficient to identify the extent of the existing wetlands, based on Section 30121 of the Coastal Act and the area of the proposed buffer areas.</p> <p>5. a. Coastal Dunes. No development shall be permitted in coastal dunes in order to preserve dune formations, vegetation, and wildlife habitats. ... Overuse in the dune area shall be prevented by such mechanisms as restricting parking, directing pedestrian traffic to areas capable of sustaining increased use, and fencing. No motor vehicles shall be permitted in beach or dune areas except for emergency purposes...</p> <p>22.56.130I (E) All coastal project permits shall be evaluated to determine the</p>		

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	<p>project's relationship to the maintenance and provision of public access and use of coastal beaches, waters and tidelands.</p> <p>(2)(b) Maintenance of Existing Coastal Access. Development which may interfere with existing coastal access shall not be permitted or shall be conditioned to assure substantially the same level and location of public access is maintained.</p> <p>22.56.130I (H)(1) No development, including grading, erection of fences, signs or other primary or accessory structures shall be permitted seaward of that undeveloped right-of-way known as Mira Vista Street in Stinson Beach.</p> <p>2. Except for those shoreline protective works otherwise permitted by this chapter, development, including signs, fences and grading activities shall not be permitted seaward of the established building setback lines established by zoning districts for shoreline parcels.</p> <p>3. Development of shorefront lots within the Stinson Beach and Seadrift area shall assure preservation of the existing sand dune formations in order to protect environmentally sensitive dune habitat, vegetation and to maintain the natural protection from wave runup which such natural dunes provide. Where no dunes are evident, new development shall, to the maximum extent feasible, be set back behind the first line of terrestrial vegetation.</p>		

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	<p>Development approvals for new projects located along such shorefront parcels shall be accompanied by findings, including mitigation conditions, <b>establishing the project's design and location, minimizing the need for shoreline protective works, protecting sandy beach habitat, providing a buffer area between public and private use areas, protecting the scenic and recreational character of the beach and maintaining the public rights of access to and use of beach dry sand areas. Permits authorizing repair and maintenance to existing shoreline structures shall to the extent feasible, provide for the above standards and objectives.</b></p> <p><b>5. No development shall be permitted in the sensitive coastal dune habitats in order to preserve dune formations, vegetation and wildlife habitats.</b></p> <p>Overuse in dune areas shall be prevented by such mechanisms as restricting parking, directing pedestrian traffic to areas capable of sustaining increased use, and fencing. No motor vehicles shall be permitted in beach or dune areas except for emergency purposes.</p> <p><b>22.56.130I O(7) Standards for development in RSP districts on the shoreline of Tomales Bay:</b></p> <p><b>a. Existing dwellings shall be permitted to be rebuilt if damaged or destroyed by natural disaster, provided that the floor area height and bulk of the new structure shall not exceed that of the</b></p>		



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<p><b>Reports required: The certified LCP requires reports to determine adequate setbacks and to demonstrate that there will be no future need for shoreline protective devices, and when development is proposed in hazardous areas defined by the LCP.</b></p> <p>The proposed LCP requires reports prepared by a qualified professional in areas subject to geologic, sea level rise, flooding, blufftop and shoreline erosion or other hazards. Shoreline development must take into account FEMA flooding from a 100-year storm and 3 feet of projected sea level rise. Blufftop development must consider bluff retreat and sea level rise for 100 years. <b>Sea level rise is based on estimates from the maps which are not final or Board.</b></p> <p>CCC staff suggested modifications require hazard analysis in areas potentially subject to hazards considering high projection of sea level rise for 100 years, unless different standards are required. Analysis and standards are the same as the County's for shoreline and blufftop development. The analysis also requires</p>	<p>destroyed structure by more than ten percent. Any proposed improvement to an existing house which results in an increase of internal floor area of more than ten percent shall require a coastal permit in order to ensure that such improvement is sited and designed to minimize impacts on Tomales Bay.</p> <p><u>UNIT I: LCP Policies on Shoreline Protection and Hazard Areas</u>  <b>1...Adequate setback distances will be determined from information contained in required geologic reports...</b></p> <p><u>UNIT I: LCP Policies on Shoreline Protection and Hazard Areas</u>  1...a complete <b>geotechnical investigation</b> which will be required if one or both of the following conditions are met: <b>The building or proposed development site is within 150 feet of the blufftop, or the site is located in stability zones 2, 3 or 4 as indicated on the Slope Stability of the Bolinas Peninsula Study Area map which accompanies Wagner's 1977 report, "Geology for Planning, Western Marin County"</b>. ...</p> <p><u>UNIT II: LCP Policies on New Development and Land Use:</u>  5(a)...<b>The applicant may be required to file a report by a qualified professional evaluating the geologic conditions of the site and the effect of the development...</b></p> <p><u>LCP Policies on New Development and Land Use:</u></p>	<p>C-EH-5 New Shoreline and Blufftop Development</p> <p>Blufftop Development...<b>A coastal hazards analysis shall evaluate the effect of erosion, geologic and other hazards at the site to ensure structural integrity for a minimum of 100 years.</b> The coastal hazards analysis shall include a quantitative slope stability analysis demonstrating a minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, k=0.15 or determined through analysis by the geotechnical engineer). Safety and stability must be demonstrated for the predicted position of the bluff following bluff recession over at least 100 years. <b>The predicted bluff position shall be evaluated considering not only historical bluff retreat data, but also acceleration of bluff retreat due to continued and accelerated sea level rise, and other climate impacts according to potential sea level rise estimates prepared and adopted by the County of Marin for use in coastal hazards analyses.</b></p> <p>Shoreline development...<b>A hazards</b></p>	<p>C-EH-3 Hazards Evaluation. All development in areas potentially subject to hazards shall be supported by reports that are prepared by qualified professionals to current professional standards that adequately address the requirements of this Chapter (which may include reports prepared by and/or for the County). These reports shall be evaluated based on the best available science; shall, if sea level rise is part of the hazards, <b>consider the impacts from the high projection of sea level rise for 100 years (unless different standards are required in the policies of this chapter);</b> shall demonstrate that the development will avoid, or if full avoidance is not possible to avoid as much as possible and minimize, impacts from coastal hazards; and <b>shall evaluate and identify the effect of the development over time on coastal resources</b> (including in terms of public access, shoreline dynamics, natural landforms, natural shoreline processes and public views as project impacts continue and/or change over time, including in response to sea level rise and fire hazards) and suggest appropriate mitigations to avoid and offset adverse</p>

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<p>the consideration of impacts to coastal resources.</p>	<p>5 (b)...<b>The County shall determine the required setback based on information submitted by the applicant, staff investigation, and a geologic report which may_ be required. The setbacks will be of sufficient distance to eliminate the need for shoreline protective works.</b></p> <p>(d) New development shall be sited and designed so that no protective shoreline structures (e.g. seawalls, groins, breakwaters) are or will be necessary to protect the building from erosion or storm damage during its expected economic lifespan (50 years). <b>The applicant may be required to submit a professional geologic report demonstrating that the project conforms to this policy.</b></p> <p>22.56.130I (L)(1) Prior to the issuance of a coastal development permit for projects located in areas depicted by the Unit I LCP geologic hazards maps, the owner (applicant) shall: (b) <b>Submit along with the permit application, a report from a registered civil or structural engineer briefly describing the extent of potential geologic hazards and those construction, siting and other recommended techniques to mitigate those possible geologic hazards.</b> The planning commission, following consultation with the director of public works may modify said requirement in subdivision 1 above for selected areas or types of projects where the commission finds that:</p> <p>i. The project area is of the same general</p>	<p>analysis shall evaluate the effect of geologic and other hazards to ensure stability and structural integrity taking into account 3 feet of projected sea level rise, The hazards analysis shall also evaluate the effect of the project over time on coastal resources.</p> <p>22.64.060 b. Environmental Hazards Reports. <b>Where the initial site assessment reveals that the proposed development is in an area potentially subject to geologic, , sea level rise, flooding, blufftop and shoreline erosion or other hazards, the project shall include applicable reports prepared by a qualified professional. The reports shall describe the extent of potential environmental hazards and recommend best available construction, siting and other techniques to avoid and minimize risks to life and property in areas of high environmental hazards. . .</b></p>	<p>effects identified.</p>

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	<p>geologic nature and sufficient data has been developed (such as by a "Master Engineering Report") to adequately judge the risk and resulting standards necessary for such areas; or ii. The type of project is a minor structure, not for human habitation, which presents little risk on or off site, by possible geologic hazards.</p> <p><b>22.56.130I (K) (1) ... The retreat rate shall be determined by a geotechnical investigation conducted by a professional engineer or registered geologist which explicitly examines the site's geotechnical capability to adequately support the proposed development. The report shall include the historic and projected rate(s) of bluff retreat attributable to wave and/or surface runoff erosion. The geotechnical report shall be required in either of the following:</b></p> <p>(a) The building or proposed development site is within <b>one hundred fifty feet of a blufftop.</b></p> <p>b. The building site is located within <b>stability zones 3 or 4 as indicated on the slope stability maps for the Bolinas and Tomales areas</b>, which maps accompany Wagner's 1977 report, "Geology for Planning, Western Marin County."</p> <p><b>22.56.130I (L)(2) Floodplain Development. Coastal project permit applications adjacent to streams which periodically flood shall include a site plan that identifies the one hundred-year floodplain</b>(as described by the Army</p>		

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<p><b>Height Requirements:</b> The certified LCP includes strict height requirements and the balance of development along the shoreline with other coastal resource protection policies.</p> <p>Allows for increases in height to meet FEMA plus sea level rise <b>without a review of impacts to public views and community character unless it exceeds 30 feet above grade.</b></p> <p>The CCC staff modifications recommend the same height standard (maximum height within the zoning district or 15 feet above the finished floor elevation, whichever is greater. For development consisting solely of elevating a height exceeding the zoning district maximum is allowed if it does not adversely affect significant public views or community character.</p>	<p>Corps of Engineers).</p> <p><u>UNIT I: Seadrift:</u>  35. Visual Resources. Height of new construction at Seadrift shall be restricted to one story.</p> <p><u>UNIT I: Visual Resources:</u>  21... All new construction in Bolinas, Stinson Beach and Muir Beach shall be limited to a maximum height of twenty-five (25) feet; except that in the Highlands neighborhood of Stinson Beach, the maximum height shall be seventeen (17) feet, and in the Seadrift section of Stinson Beach, the maximum height shall not exceed fifteen (15) feet.</p> <ul style="list-style-type: none"> <li>To the maximum extent feasible, new development shall not impair or obstruct an existing view of the ocean, Bolinas Lagoon, or the national or State parklands from Highway 1 or Panoramic Highway.</li> </ul> <p>22.56.130I O. Visual Resources and Community Character.  1. All new construction in Bolinas, Stinson Beach, and Muir Beach shall be restricted to a maximum height of twenty-five feet; except that the Stinson Beach Highlands will have a maximum height of seventeen feet, and the Seadrift Subdivision will have a maximum of fifteen feet above finished floor elevation.  2. To the maximum extent feasible, new development shall be designed and sited so as not to impair or obstruct existing</p>	<p><b>C-EH-9 Maximum Building Heights in Flood Hazard Areas.</b> For new development within Flood Hazard Areas as defined by Policy C-EH-3, the maximum allowable building height shall be 25 feet above grade, or 15 feet above the minimum floor elevation as required by Policy C-EH-8, whichever is greater (see Policy C-EH-11 for Maximum Building Heights within the Seadrift Subdivision) except:</p> <p>Where development consists solely of raising an existing structure by the minimum amount necessary to meet the Base Flood Elevation (BFE) established by FEMA plus any additional elevation require by Policy C-EH-8:</p> <ol style="list-style-type: none"> <li>A resulting building height of up to 30 feet above grade shall be deemed sufficient to comply with coastal hazard, public view, community character and related provisions of the LCP. Such Coastal Permits shall be subject to conditions of approval prohibiting future increases in the height, mass, and bulk of the structure.</li> <li>A resulting building height which would exceed 30 feet above grade may only be permitted after an individual evaluation of conformance with public view, community character and related provisions of the LCP.</li> </ol>	<p>C-EH-5 Standards for Shoreline Development (2)... the maximum allowable height shall be consistent with applicable zoning district standards, or 15 feet above the finished floor elevation (which shall be no more than 2 feet above the elevation of the lowest horizontal members of such foundation) if necessary to provide a single standard story of living space, whichever is greater. Where development consists solely of raising an existing structure by the minimum amount necessary to meet these flood elevation standards, a resulting building height that would exceed the zoning district height maximum may be allowed if the additional height does not adversely affect significant public views or community character; and existing legal non-conforming buildings that are encroaching into a required yard setback may be approved without the need for a variance to setback requirements, as long as the extent of the encroachment is not expanded.</p>

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	<p>coastal views from Highway 1 or Panoramic Highway.</p> <p>3. The height, scale and design of new structures shall be compatible with the character of the surrounding natural or built environment. Structures shall be designed to follow the natural contours of the landscape and sited so as not to obstruct significant views as seen from public viewing places.</p> <p>7. Standards for development in RSP districts on the shoreline of Tomales Bay:</p> <p>a. Existing dwellings shall be permitted to be rebuilt if damaged or destroyed by natural disaster, <b>provided that the floor area height and bulk of the new structure shall not exceed that of the destroyed structure by more than ten percent.</b> Any proposed improvement to an existing house which results in an increase of internal floor area of more than ten percent shall require a coastal permit in order to ensure that such improvement is sited and designed to minimize impacts on Tomales Bay.</p> <p><b>b. New residential construction shall be limited in height to fifteen feet, as measured from natural grade on the highest side of the improvement to the highest point of the roof or any projection therefrom. Exceptions to this height limit may be permitted where the topography, vegetation, or character of existing development is such that a higher structure would not create additional interference with coastal views either to, along, or from the</b></p>	<p>C-EH-5 Shoreline Development... Where development consists solely of raising an existing structure to meet the Base Flood Elevation (BFE) established by FEMA and any additional elevation required by Policy C-EH-8, compliance with Policy C-EH-3 shall be deemed sufficient to comply with coastal hazard, public view, community character and related provisions of the LCP.</p>	



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<p><b>Shoreline Protective Device (SPD) requirements:</b> The certified LCP discourages the proliferation of shoreline structures and only permits them when required to serve coastal dependent uses or protect existing structures (constructed before 1981) or public beaches in danger from erosion, when designed to eliminate or mitigate adverse impacts on local shoreline sand supply, when no other nonstructural alternative is practical, the condition is a general erosion trend, the structure will not be located in wetlands or other significant resource areas, there will be no reduction in public access, use or enjoyment of the natural shoreline and the structure will preserve or provide for access to public recreational lands, and the structure will not restrict navigation. The certified LCP requires that shoreline protection shall reestablish the former dune contour and appearance, accommodate previously existing shoreline access, protect visual resource and natural landforms, include mitigation measures to offset impacts on fish and wildlife, minimize impact to sand supply and water circulation.</p>	<p>water. c. New development shall meet all other LCP policies, including those on public access, natural resources and wetland protection, shoreline structures, diking/filing/dredging, public services, hazards, visual resources, and new development.</p> <p><u>UNIT I: LCP Policies on Shoreline Protection and Hazard Areas:</u> 5...Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline process shall be permitted when required to serve coastal-dependent uses or to protect existing structures (constructed before adoption of the LCP), or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.</p> <p>9. In the absence of an overall wave hazard/shoreline erosion study, any permit application for seawalls, riprap or other protective structures on beaches, shall be accompanied by engineering reports stating the nature and extent of wave erosion hazard along the beach area and an explanation of how the proposed protective works will mitigate the hazard, both on and off the project site...</p> <p><u>UNIT II: LCP POLICIES ON SHORELINE STRUCTURES:</u> 1. General policy. <b>The County discourages the proliferation of</b></p>	<p><b>C-EH-13 Shoreline Protective Devices. Discourage shoreline protective devices in the Coastal Zone, including encouraging their removal and site restoration where feasible, due to their coastal resource impacts</b> (including visual impacts, obstruction of public access, interference with natural shoreline processes and water circulation, and effects on marine habitats and water quality)</p> <p>Allow the construction, reconstruction, expansion, and/or replacement of a shoreline protective device, including revetments, breakwaters, groins, seawalls, bluff retention devices, deep piers/caissons, (<b>deep piers/caissons are not considered to be a shoreline protective device when they are designed and used for architectural foundations and not for erosion protection or to prevent beach retreat</b>) or other artificial structures for coastal erosion control and hazards protection, only if each of the following criteria is met:</p> <p>1. The shoreline protective device is required to serve a coastal-dependent use or to protect a</p>	<p>C-EH-12 Standards for Shoreline Protective Devices. Shoreline protective devices (i.e., including revetments, breakwaters, groins, seawalls, bluff retaining walls and <b>other like devices, piers/caisson foundation systems, or other similar structures designed as protection against coastal hazards</b>), shall be prohibited unless they meet all of the criteria below:</p> <p>1. Allowable armoring. The shoreline protective device is required: to serve a coastal-dependent use or to protect a principal structure in existence prior to <b>the effective date of the Coastal Act (i.e. January 1, 1977)</b> that is in danger from erosion (i.e. would be unsafe to use or occupy within two storm seasons; or to protect a public beach that is in danger from erosion. Notwithstanding the above, a pier/caisson foundation system shoreline protective device may be allowable under certain circumstances pursuant to C-EH-5.</p> <p>2. <b>Least Damaging Alternative.</b> The shoreline protective device is the least environmentally damaging feasible alternative to protect existing endangered principal structures, public beaches, or coastal-dependent uses. Hard</p>

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<p>The proposed LCP limits SPDs in the coastal zone and only allows them to protect existing principle structures constructed prior to the <b>adoption of the Local Coastal Program (May 13, 1982) or public beaches in danger from erosion</b> when designed to eliminate or mitigate adverse impacts on local shoreline sand supply, when no other nonstructural alternative is practical, the structure will not be located in wetlands or other significant resource area, there will be no reduction in public access, use or enjoyment of the natural shoreline and the structure will preserve or provide for access to public recreational lands, and the structure will not restriction navigation. Applications for expansion of shoreline protection include an assessment of the need and potential removal. Shoreline protection will only be authorized for a specified time period, mitigation shall be required in 20-year increments and also require monitoring and reporting. The proposed LCP also includes design standards that protect visual resources and include mitigation for impacts to sensitive habitats and public access. <b>The propose LCP does not consider deep piers/caissons shoreline protective devices when they are designed and used for architectural foundations and not for erosion protection or to prevent beach retreat</b></p> <p>Commission suggested modifications combine the standards and design requirements into one policy. The</p>	<p><b>shoreline structures in the Unit II coastal zone</b> due to their visual impacts, obstruction of public access, interference with natural shoreline processes and water circulation, and effects on marine habitats and water quality. In some cases, however, the County recognizes that the construction of protective works or piers may be necessary or desirable. When' piers are allowed, multiple public and private, commercial and recreational uses shall be accommodated, if feasible, to maximize the use of these structures and minimize the need for further construction. Coastal permits for all shoreline structures will be evaluated based on the criteria listed in the policies below.</p> <p>2. Shoreline protective works. The construction or reconstruction of revetments, breakwaters, groins, seawalls, or other artificial structures for coastal erosion control shall be allowed only if each of the following criteria is met:</p> <p>a. <b>The structure is required to serve a coastal-dependent use, a coastal-related use in a developed area, or to protect existing development or public beaches.</b></p> <p>b. <b>No other non-structural alternative is practical or preferable.</b></p> <p>c. <b>The condition causing the problem is site specific and not attributable to a general erosion trend, or the project reduces the need for a number of individual projects and solves a regional erosion problem.</b></p>	<p>principal structure, residence, or second residential unit in existence prior to the adoption of the Local Coastal Program (<b>May 13, 1982</b>) or a public beach in danger from erosion.</p> <p><b>2. No other non-structural alternative,</b> such as sand replenishment, beach nourishment, or managed retreat is feasible, and the device is the least environmentally damaging feasible alternative.</p> <p><b>3.</b> It can be shown that a shoreline protective device will successfully <b>eliminate or mitigate its effects on local shoreline sand supply</b> and that the device will not adversely affect adjacent or other sections of the shoreline.</p> <p><b>4. The shoreline protective device will not be located in wetlands or other significant resource or habitat area,</b> and will not cause significant adverse impacts to fish or wildlife.</p> <p><b>5. There will be no reduction in public access, use, or enjoyment of the natural shoreline environment,</b> and construction of a shoreline protective device will preserve or provide access to related public recreational lands or facilities.</p> <p><b>6. The shoreline protective device will not restrict navigation,</b> mariculture, or other coastal use and will not create a hazard in the area in which it is built.</p> <p><b>7.</b> For existing shoreline protective</p>	<p>armoring (such as seawalls and revetments, etc.) shall only be allowed if soft alternatives (such as beach nourishment, vegetative planting, and drainage control, etc.) cannot meet the above least environmentally damaging feasible alternative criteria, and if limited as much as possible to avoid coastal resource impacts. All shoreline protective devices shall be sited and designed to avoid coastal resource impacts to the maximum feasible extent, including that all allowable device shall be designed to blend visually with the natural shoreline and provide for public recreational access.</p> <p><b>3. Impacts Mitigated.</b> The project includes proportional mitigation for all unavoidable coastal resource impacts, including with respect to impacts on shoreline sand supply, sandy beaches, public recreational access, public views, natural landforms, and water quality. At a minimum, the effects of the device with respect to retention of shoreline sand generating materials, the loss of beach/sand due to its footprint, and passive erosion shall be evaluated. Proportional in-lieu fees may be used as a vehicle for impact mitigation if in-kind options (such as developing new public access facilities) are not possible, and if such in-lieu fees are deposited in an interest bearing account managed by the County and used only for public recreational shoreline area access improvements. Impact mitigation shall be evaluated and required in 20-year</p>

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<p>requirements are identical except only allows them to protect existing principle structures constructed prior to the adoption of the Local Coastal Program (May 13, 1982) or public beaches in danger from erosion and considers deep piers/caissons are to be a shoreline protective devices. While the suggested modifications consider piers and caissons as shoreline protection it specifies that they may be allowable under certain circumstances pursuant to C-EH-5.</p>	<p>d. <b>It can be shown that a structure(s) will successfully mitigate the effects of shoreline erosion and will not adversely affect adjacent or other sections of the shoreline.</b></p> <p>e. <b>The structure will not be located in wetlands or other significant resource or habitat area, and will not cause significant adverse impacts to fish or wildlife.</b></p> <p>f. <b>There will be no reduction in public access, use, and enjoyment of the natural shoreline environment, and construction of a structure will preserve or provide access to related public recreational lands or facilities.</b></p> <p>g. <b>The structure will not restrict navigation, mariculture, or other coastal use and will not create a hazard in the area in which it is built.</b> Before approval is given for the construction or reconstruction of any protective shoreline structure, the applicant for the project shall submit a report from a registered geologist, professional civil engineer, or certified engineering geologist verifying that the structure is necessary for coastal erosion control and explaining how it will perform its intended function...</p> <p>22.56.130I (K)(2)Standards and requirements for shoreline protective works. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline process shall be</p>	<p>devices that are being reconstructed, expanded, and/or replaced, <b>the coastal permit application shall include a re-assessment of the need for the device, the need for any repair or maintenance of the device, and the potential for removal based on changed conditions.</b> The coastal permit application shall at a minimum include an evaluation of: the age and condition of the existing principal structure being protected; changed geologic site conditions including but not limited to changes relative to sea level rise; and impacts to coastal resources, including but not limited to public access and recreation.</p> <p><b>8. The shoreline protective device shall only be authorized for a specified time period depending on the nature of the project and other possible changing conditions.</b> Maintenance beyond the specified time period, modification, or expansion of the approved device shall require approval of an amendment to the Coastal Permit.</p> <p><b>9.</b> Shoreline protective devices shall be required to mitigate impacts to shoreline sand supply, public access and recreation, and any other relevant coastal resource impacts in <b>20-year increments</b>, starting with the building permit completion certification date. Permittees shall apply for a coastal permit amendment prior to expiration of</p>	<p>increments, and permittees shall be required to apply for coastal permit amendments prior to expiration of each 20-year mitigation period that proposes mitigation for coastal resource impacts associated with retention of the shoreline protective device beyond the preceding 20-year mitigation period, where such application shall include consideration of alternative feasible mitigation measures in which the permittee can modify the shoreline protective device to lessen its impacts on coastal resources.</p> <p><b>4. Monitoring.</b> The shoreline protective device shall be regularly monitored by an engineer or engineering geologist familiar and experienced with coastal structures and processes. Monitoring reports to the County and the Coastal Commission shall be required every five years from the date of coastal permit issuance for as long as the shoreline protective device remains authorized (see subsection 6 below), and such reports shall cover all aspects of the armoring reevaluation specified in subsection 5 below.</p> <p><b>5. Armoring Reevaluation.</b> For existing shoreline protective devices that are being reconstructed, expanded, and/or replaced, the coastal permit application shall include a re-assessment of the need for the device, the need for any repair or maintenance of the device, and the potential for removal based on changed conditions, including whether such device, and the potential for removal based on changed conditions, including whether such device meets the criteria in</p>



Issue	Existing Certified LCP	County Proposed	CCC Suggested Modifications
	<p>permitted only when:</p> <p>a. <b>Required to serve coastal-dependent uses or to protect existing structures (constructed before adoption of the LCP).</b></p> <p>b. <b>No other nonstructural alternative is practical or preferable.</b></p> <p>c. <b>The condition causing the problem is site specific and not attributable to a general erosion trend, or the project reduces the need for a number of individual projects and solves a regional erosion problem.</b></p> <p>d. <b>The structure will not be located in wetlands or other significant resource or habitat area, and will not cause significant adverse impacts to fish or wildlife.</b></p> <p>e. <b>There will be no reduction in public access, use and enjoyment of the natural shoreline environment, and construction of a structure will preserve or provide access to related public recreational lands or facilities.</b></p> <p>f. <b>The structure will not restrict navigation, mariculture or other coastal use and will not create a hazard in the area in which it is built.</b></p> <p>In the absence of an overall wave hazard/shoreline erosion study, any permit application for seawalls, riprap or other protective structures on beaches, shall be accompanied by engineering reports stating the nature and extent of wave erosion hazard along the beach area and an explanation of how the proposed protective works will mitigate the hazard, both on and off the project</p>	<p>each 20-year mitigation period, proposing mitigation for coastal resource impacts associated with retention of the shoreline protective device beyond the preceding 20-year mitigation period, and such application shall include</p> <p>consideration of alternative feasible mitigation measures in which the permittee can modify the shoreline protective device to lessen its impacts on coastal resources.</p> <p>10. The shoreline protective device shall be regularly <b>monitored</b> by an engineer or engineering geologist familiar and experienced with coastal structures and processes. Monitoring reports to the County and the Coastal Commission shall be required every five years from the date of coastal permit issuance until coastal permit expiration, which shall evaluate whether or not the shoreline protective device is still required to protect the existing structure it was designed to protect.</p> <p><b>C-EH-14 Design Standards for the Construction of Shoreline Protective Devices.</b> Ensure that the design and construction of any shoreline protective device shall:</p> <ol style="list-style-type: none"> <li>1. Be sited, designed, and treated to <b>blend in visually</b> with the natural shoreline;</li> <li>2. <b>Respect and integrate into natural landforms</b> to the greatest degree</li> </ol>	<p>Policy C-EH-12. The coastal permit application shall at a minimum include an evaluation of: the age and condition of the existing principal structure being protected (or evaluation of the coastal-dependent use being served or public beach being protected, if applicable); changed geologic site conditions including but not limited to changes relative to sea level rise; and impacts to coastal resources, including but not limited to public recreational access and ways to reduce such impacts. If approved, such development associated with existing shoreline protective devices shall meet all of the other requirements of this policy, including with respect to the impact mitigation requirements of subsection 3 above.</p> <p>6. <b>Armoring Duration.</b> The shoreline protective device shall only be authorized until the time when the existing principal structure that is protected by such a device: 1) is no longer present; 2) no longer requires armoring; or 3) is redeveloped. Permittees shall be required to submit a coastal permit application to remove the authorized shoreline protective device within six months of a determination that the shoreline protective device is no longer authorized to protect the structure it was designed to protect because the structure is no longer present or no longer requires armoring. In the case of coastal redevelopment, removal of the authorized shoreline protective device shall be required as part of construction</p>

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	<p>site...</p> <p><u>UNIT I: LCP Policies on Shoreline Protection and Hazard Areas:</u></p> <p>6. To minimize visual and sand transport impacts on Stinson Beach, any permit granted to construct erosion control structures shall <b>require the re-establishment of the former dune contour and appearance.</b></p> <p><u>UNIT I: LCP Policies on Public Access:</u></p> <p>4. Construction of shoreline protection measures otherwise permitted by LCP policies shall <b>accommodate previously existing shoreline access.</b></p> <p><u>UNIT II: LCP POLICIES ON SHORELINE STRUCTURES:</u></p> <p>5. Design standards for all shoreline structures. The design and construction of any shoreline structure shall:</p> <p>a. Make it <b>as visually unobtrusive as possible;</b></p> <p>b. <b>Respect natural landforms</b> to the greatest degree possible;</p> <p>c. <b>Include mitigation measures</b> to offset any impacts on fish and wildlife resources caused by the project;</p> <p>d. <b>Minimize the impairment and movement of sand supply and the circulation of coastal waters;</b> and</p> <p>e. <b>Address the geologic hazards</b> presented by construction in or near Alquist-Priolo earthquake hazard zones.</p>	<p>possible;</p> <p>3. <b>Include mitigation</b> measures to offset any impacts on fish and wildlife resources caused by the project;</p> <p>4. <b>Minimize and mitigate for the impairment and interference with shoreline sand supply</b> and the circulation of coastal waters;</p> <p>5. <b>Address the geologic hazards</b> presented by construction in or near Alquist-Priolo earthquake hazard zones;</p> <p>6. <b>Protect, and enhance where feasible, public recreational access,</b> as much as possible, including by minimizing the displacement of beach; and</p> <p>7. If necessary, be <b>combined with efforts to control erosion from surface and groundwater flows.</b></p>	<p>of the redeveloped structure (see also C-EH-11 above).</p>

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<p><b>Waiver of liability:</b> The certified LCP requires a waiver of liability for development in areas subject to hazards.</p>	<p>22.56.130I (K)(2)...Applications for placement of protective structures on beaches shall be accompanied by an engineers report unless an overall wave hazard/ shoreline erosion report exists. Said engineers report shall include:</p> <ul style="list-style-type: none"> <li>a. A statement of the nature and extent of wave erosion hazard;</li> <li><b>b. An analysis of how the proposed protective works will mitigate the hazard both on and off the site;</b></li> <li>c. An assessment of <b>any adverse impacts to adjacent properties or resources that might reasonably be expected to result from construction of the protective structure.</b></li> </ul> <p>Design standards for all shoreline structures. The design and construction of any shoreline structure shall:</p> <ul style="list-style-type: none"> <li>a. Make it as <b>visually unobtrusive as possible;</b></li> <li>b. <b>Respect natural landforms</b> to the greatest degree possible;</li> <li>c. <b>Include mitigation measures</b> to offset any impacts on fish and wildlife resources caused by the project;</li> <li>d. <b>Minimize the impairment and movement of sand supply and the circulation of coastal waters;</b></li> <li>e. <b>Address the geologic hazards</b> presented by construction in or near Alquist-Priola earthquake hazard zones;</li> <li>f. <b>Provide for the reestablishment of the former dune contour and appearance.</b></li> </ul> <p><u>UNIT I: LCP Policies on Shoreline Protection and Hazard Areas:</u>  <b>4. Many of the building sites in Unit I are</b></p>	<p>C-EH-2 Applicant's Assumption and Disclosure of Risk. As a condition of coastal permit approval for <b>development</b></p>	<p>C-EH-10 Waiver of Liability and Assumption of Risk. Coastal permit approvals for development in areas</p>

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<p>The proposed LCP requires that applicants assume and disclose risk that no future SPD are allowed, public funds may not be available to remedy damage to public services, housing provisions prohibit occupancy of structures without water or sewage disposal, <b>and risk associated with 100 years of sea level rise based on maps that are not final or adopted by the Board. There are no policies in the LCP that direct what happens if any of these situations occur.</b></p> <p>CCC suggested modifications are identical to the County requirements except that no future protection includes no future elevation except a one time elevation. It also requires acceptance that the development may require removal and restoration under certain criteria.</p>	<p><b>characterized by one or more potential geologic hazards.</b> The development of residential structures on such parcels may be subject to often sudden and destructive geologic phenomenon. <b>The County of Marin does not encourage new residential development of such parcels and expressly states that the issuance of a coastal development permit for such property does not warrant said property's safety_ from geologic hazards.</b> Further, the County of Marin <b>will not accept liability for subsequent personal or property damage caused by geologic processes on said properties.</b> To assure that the builder and subsequent purchasers are expressly aware of the policy, a <b>"waiver of liability" shall be executed and recorded by said for short-term, emergency food, shelter, and said property owner prior to the issuance of a coastal development permit.</b> Further, clothing, the County of Marin will not participate in emergency or disaster relief funding for properties so identified and would recommend such limitations on State and/or federal disaster/emergency grants and/or loans.</p> <p>7. Because revetments, seawalls or other <b>shoreline protective works can be detrimental to maintenance of natural shoreline processes and can interfere with visual enjoyment and coastal access, such works are discouraged.</b> The County of Marin through the LCP and other</p>	<p><b>in hazardous areas,</b> require the applicant to record a document:</p> <ol style="list-style-type: none"> <li><b>Acknowledging that the site is subject to coastal hazards</b> which may include coastal erosion, shoreline retreat, flooding, and other geologic hazards;</li> <li><b>Acknowledging that future shoreline protective devices to protect authorized structures are prohibited;</b></li> <li><b>Acknowledging that public funds may be insufficient or unavailable to remedy damage to public roadways, infrastructure, and other facilities</b> resulting from natural events such as sea level rise and bluff erosion;</li> <li><b>Acknowledging that Housing Code provisions prohibit the occupancy of structures where sewage disposal or water systems are rendered inoperable;</b> and</li> <li><b>Assuming all risks and waiving any claim of damage or liability</b> against the County for personal or property damage resulting from such coastal hazards.</li> </ol> <p>The recorded document shall also disclose potential vulnerability of the development site to long term sea level rise <b>by incorporating the County's 100 year time frame sea level rise hazard map</b> for the subject property and surrounding area, where applicable.</p>	<p>potentially subject to hazards, shall contain conditions requiring applicants to record deed restrictions against properties governed by the permit in which the applicants acknowledge and agree, on behalf of themselves and successors and assigns: that the site is <b>subject to hazards,</b> each of which shall be explicitly identified, <b>including vulnerabilities to sea level rise if the property is located in an area potentially inundated by sea level rise as shown on LCP Map 15 and/or as identified pursuant to the hazards evaluation in C-EH-3; to assume all such hazard risks; to prohibit and to waive any rights that may exist for new and/or augmented shoreline protective devices (including additional elevation for structures already elevated pursuant to C-EH-5); that public funds may be insufficient or unavailable to remedy damage to public roadways, infrastructure, and other facilities</b> resulting from natural events such as sea level rise and bluff erosion; <b>that Housing Code provisions prohibit the occupancy of structures where sewage disposal or water systems are rendered inoperable;</b> that any adverse effects to property caused by the development shall be <b>fully the responsibility of the applicants and may require removal and restoration under certain criteria</b> (see also C-EH-11 and C-EH-17 below).</p>

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<p><b>Mitigation Measures/Removal:</b> The certified LCP requires disclosure and assumption of risk (see above) and removal of existing building when the structure poses an immediate and established health or safety hazard. CCC staff modifications include triggers</p>	<p>documentation has identified those coastal areas potentially subject to significant wave and run-off erosion. Because such probable risk areas are identified, sufficient opportunity for private investigation and response to such hazards is available. Therefore, the County of Marin shall not finance or construct emergency shoreline protective devices for the benefit of private developments.</p> <p><u>UNIT II: LCP Policies on New Development and Land Use:</u> 5(a)....In addition, <b>as a condition of coastal permit approval, the applicant shall be required to sign a waiver of liability exempting the County from liability for any personal or property damage caused by natural hazards on such properties.</b></p> <p>22.56.130I (L)(1)(a)Execute and record a waiver of public liability holding the county, other governmental agencies and the public harmless because of loss experienced by geologic activities. The waiver of liability shall be in a form approved by county counsel and run with the property;</p> <p>22.56.130I (F) Housing: Existing residential buildings which provide housing opportunities for persons of low and moderate income (as defined by the most recent federal housing and urban development guidelines) shall be removed or demolished only upon specific findings that:</p>	<p>N/A</p>	<p>C-EH-11 Mitigation Measures Required for Development Subject to Hazards. Development in shoreline, bluff face, and blufftop areas that are subject to hazards shall comply with all of the following, including through application of conditions of approval that provide for same:</p>

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<p>for when development, including existing armoring, should be removed including when it is declared unsafe, when it needs new shoreline protective devices, and when it encroaches onto public trust lands (except on the shoreline of Tomales Bay and Bolinas Lagoon when it already has a State Lands Commission lease).</p>	<p>1. <b>The structure poses an immediate and established health or safety hazard;</b></p>		<p><b>1. Development Duration.</b> Development shall be removed and the affected area restored to a natural condition if: (a) the County declares the development unsafe for occupancy and/or use and the development requires new and/or augmented shoreline protective devices (including additional elevation for structures already elevated pursuant to C-EH-5) to be made safe for occupancy and/or use; (b) the development requires new and/or augmented shoreline protective devices (including additional elevation for structures already elevated pursuant to C-EH-5); (c) the development encroaches onto public trust land (including as the public trust migrates) (other than legally established development that is as of the date of LUP certification already elevated above public trust lands in Bolinas and Tomales Bay) ; (d) access and utilities are no longer available to serve the development; (e) the blufftop edge erodes to the minimum setback line established via Policy C-EH-6; and/or (f) required by subsequent adaptation planning (see Policy C-EH-17). Bonding sufficient to cover such removal and restoration shall be provided.</p> <p>2. Existing Armoring. If an existing shoreline protective device (other than a pier/caisson foundation system supporting the development itself) is associated with new shoreline, bluff face, and/or blufftop development (including coastal redevelopment), then such development shall only be approved</p>



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<p><b>Public trust lands:</b> The certified LCP requires coordination with State Lands Commission when a CDP is on property that may be subject to the public trust to determine whether a lease will be required before an issuance of a CDP. <b>The Certified LCP also prohibits fill of</b></p>	<p><u>UNIT 1: Seadrift:</u>  <b>38. Public Trust.</b> Portions of the Seadrift Subdivision may be subject to the doctrine of public trust, whereby easements benefiting selected public uses run with the property. The LCP adequately identifies and provides a</p>	<p><b>C-CD-7 Structures on Public Trust Lands.</b>  <b>Allow existing structures on public trust lands along the shoreline of Tomales Bay to be rebuilt</b> if destroyed by natural disaster, in conformance with development standards specified in Section 30610(g) of the Coastal Act and</p>	<p>subject to a requirement that the existing shoreline protective device is required to be removed and the area affected by the device restored to natural conditions as part of project construction as a condition of development approval. Removal and restoration shall not be required where removal of the shoreline protective device would endanger existing principal structures on adjacent sites to the degree that these principal structures would qualify for armoring under this LCP unless such adjacent sites have already been required to remove such armoring and restore the area when feasible via prior conditions of approval (see following sentence). When immediate removal and restoration is not required for these reasons, such development shall only be approved subject to a requirement that the existing shoreline protective device be removed and the affected area restored as soon as such removal and restoration can be accomplished without endangering existing principal structures on adjacent sites (e.g., as adjacent sites redevelop, as adjacent sites are conditioned for future removal, etc.), and that bonding sufficient to cover such removal and restoration be provided. . .</p> <p>See mitigation discussion above.</p>

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<p><b>wetlands for the purposed of single-family residential development.</b></p> <p>The proposed LCP finds that construction of new residential dwellings on public trust lands is not considered an appropriate public trust use and is not allowed but does allows structures to be rebuilt if destroyed.</p> <p>(See mitigation measures above for the CCC suggested modifications with respect to public trust lands)</p>	<p>balanced level of public use on and adjacent to the land of Seadrift. However, to assure thorough consideration of the public trust issues, the following policy is proposed:  <b>The County of Marin will notify the State Lands Commission when an application for a coastal development permit is filed with the County on property identified as potentially subject to the public trust. Such notification shall be on lands shown on maps, supplied by the State Lands Commission, as being potentially subject to the trust easement. The State Lands Commission shall be requested to make a statement as to whether the lands are subject to the public trust, and whether a permit or lease will be required for such proposed development, prior to the issuance of the coastal permit by the County.</b></p> <p>22.56.130I (G)(5)(a) Filling of wetlands for the purposes of single-family residential development shall not be permitted.</p>	<p>other County policies. <b>Construction of new residential dwellings on public trust lands is not considered an appropriate public trust use and is not allowed...</b></p>	
<p><b>Sandy Beach Protection:</b> The certified LCP includes policies that prohibit development in sensitive dune/beach areas to protect ESHA, maintain natural protection from wave run-up, provide a buffer area between public and private use, minimize the need for SPDs, protect scenic and visual resources and the public's right to enjoy the beach. The LCP also encourages the acquisition of undeveloped shoreline areas of Tomales bay for public recreation, visual access to</p>	<p>(See UNIT I: LCP POLICIES ON NATURAL DUINE AND SANDY BEACH PROTECTION in the <i>Shoreline Development-Economic life/setback requirements section above</i>)</p> <p><b>UNIT II: LCP POLICIES ON RECREATION AND VISITOR-SERVING FACILITIES:</b></p> <p>2. Public Parklands...</p> <p>d. Acquisitions. The <b>undeveloped shoreline on both sides of Tomales Bay has great value for public recreation, public physical and visual access to the</b></p>	<p>Program EH-22a...4. Support efforts to monitor sea level rise impacts to natural resources and ESHA, including Bolinas Lagoon, Tomales Bay, Esteros San Antonio and Americano and other wetland areas; and Lagunitas, Walker, Estero Americano, Dillon, Stemple and other creeks; rocky intertidal areas, beaches and other habitat types vulnerable to sea level rise. Collaborate with Greater Farallones National Marine Sanctuary (GFNMS), Tomales Bay</p>	<p>8. Sandy Beach Management. Building upon the County's Vulnerability Assessment, and no later than December 31, 2026, the <b>County shall establish and add to the LCP comprehensive Sandy Beach Management Plans to ensure that the public recreational, habitat, and social values of all sandy beaches in the County (including Stinson Beach, Muir Beach, Bolinas Beach, Dillon Beach, etc.) are protected over time.</b> For each sandy beach within Marin County, the County</p>



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<p>the water and natural resource protection.</p> <p>The proposed LCP includes efforts to monitor sea level rise impacts to beaches.</p> <p>CCC suggested modifications require that the County add to the LCP comprehensive Sandy Beach Management Plans to ensure that the public recreational, habitat, and social values of all sandy beaches in the County are protected over time.</p>	<p><b>water, and natural resource protection. The County strongly encourages public acquisition of these lands so that they may be preserved for public use and protected from the impacts of development..</b></p>	<p>Watershed Council and other local, regional, state and federal entities to establish monitoring methods and track the effects of sea level rise.</p>	<p>shall create a Sandy Beach Management Plan (Plan) that describes sandy beach values, and that establishes enforceable parameters for development that is located in the area where development might affect such values (e.g., shoreline, bluff face, and blufftop areas). The County shall consider developing a Sandy Beach Protection Zone overlay district to apply to properties in such area, but at a minimum shall consider the tools that can be used to protect such sandy beach values, including through conditions of approval for development within the identified area (and overlay district if applicable). The County may identify other mechanisms, but the Plans shall identify the parameters under which removal and restoration may be required to protect the sandy beach values, including in terms of triggers and potential conditions as well as deed restrictions and other measures that can be used to notify property owners of all such conditions and other Plan requirements...</p>











# FLOWCHART OF COASTAL ACT PROCESSES INVOLVING AGRICULTURAL DEVELOPMENT AFTER DELEGATION OF PERMIT AUTHORITY TO LOCAL GOVERNMENT

