

## COMMUNITY DEVELOPMENT AGENCY

February 26, 2013

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**SUBJECT: Local Coastal Program Amendments (LCPA)**

Fifth Board Public Hearing - Remaining carryover topics related to Agriculture, Biological Resources, Community Design, Community Development, Wind Energy Conversion Systems (WECS), Transportation, Maps (Categorical Exclusion Areas), and Coastal Permit Administration.

Dear Members of the Board,

**RECOMMENDATION:**

Continue the public hearing and consider approving the Local Coastal Program Amendment (LCPA) as revised through your direction and set forth in attached Exhibits 1 and 2.

**BACKGROUND:**

At the December 11, 2012 and January 15, 2013 public hearings, the Board specifically discussed a number of modifications relating to Agriculture, Biological Resources, Community Design, Community Development, Wind Energy Conversion Systems (WECS), and Transportation in the LCPA. The Board provided direction to staff on policies and programs that were accepted, and those that should be revised.

Exhibit 1 provides new revisions requested by the Board to specific policies and development code sections related to the topics listed above, as well as additional modifications suggested by staff. Each proposal includes a brief discussion along with recommended new text shown in cross-out underline format in boxes labeled "PROPOSED AMENDMENTS, Board Action Required," to facilitate your final approval.

The next hearing scheduled for March 12, 2013 has been canceled and will be scheduled to a date to be determined. The purpose of this hearing will be to present a resolution to adopt the LCPA.

**SUMMARY:**

The LCP Amendment approved by the Planning Commission on February 23, 2012 is the baseline for your Board's review. In response to issues raised by the California Coastal Commission staff and others, alternative language has been offered in some cases for your Board's consideration in this staff report and at previous hearings on October 2, November 13, and December 11, 2012. Two Exhibits comprise the substance of the staff report:

- **Exhibit 1** identifies remaining issues requiring Board action, carried forward from the Board hearings on December 11, 2012 and January 15, 2013.
- **Exhibit 2** shows revisions your Board approved from the hearings on December 11, 2012 and January 15, 2013.
- **Exhibit 3** is a compilation of all revisions your Board approved to the Planning Commission LCPA through the January 15, 2013 hearing. This includes all changes approved by the Board at previous hearings as well as those recommended by staff in Exhibit 1 of this report.
- **Exhibit 4** is a map showing the potential proposed alignment of the Coastal Trail to coincide with the Highway 1 corridor from Tomales north to where it would connect with the proposed Sonoma County Coastal Trail alignment.

**FISCAL/STAFFING IMPACT:**

No fiscal or staffing impact as a result of the LCP amendment is expected since the work to complete the LCPA is budgeted in the current fiscal year and programmed in the Department's Performance Plan.

**REVIEWED BY:**      *(These boxes must be checked)*

<input type="checkbox"/> Department of Finance	<input checked="" type="checkbox"/> N/A
<input type="checkbox"/> County Counsel	<input checked="" type="checkbox"/> N/A
<input type="checkbox"/> Human Resources	<input checked="" type="checkbox"/> N/A

**SIGNATURE:**

**Reviewed by:**

Jack Liebster  
Planning Manager

Brian C. Crawford  
Director

**ATTACHMENTS:**

1. Exhibit 1: Staff Recommendation
2. Exhibit 2: Board Revisions Approved 12/11/12 and 1/15/13.
3. Exhibit 3: Compilation of all Revisions to PC-approved LCPA through 1/15/13
4. Exhibit 4: Revised Map 25 Coastal, Ridge and Bay Trails

## BIOLOGICAL RESOURCES

### Coastal Permits for Repair and Maintenance

#### ***Discussion of Additional Amendments:***

Section 30610 of the Coastal Act authorizes certain activities without coastal permits, including improvements to single-family structures and repair or maintenance. Such activities are exempt so long as they do not involve a risk of substantial adverse environmental impact. This policy is further refined in the California Coastal Commission Administrative Regulations, Sections 13250 through 13253, which provide greater detail regarding those improvements and activities that require permits.

The Interim Development Code carries forward the Coastal Commission regulations. In Section 22.56.050I.A it sets forth coastal permit exemptions for certain repair and maintenance activities. In Section 22.56.050I.D, it sets forth coastal permit exemptions for fixtures and structures directly attached to the structure, residential accessory structures; landscaping; and additions of less than 10%. However, these exemptions are not applicable to improvements to any structure on a beach, wetland, stream or seaward of the mean high waterline (Section 22.56.055I.A).

The proposed LCP Development Code amendments carry forward the permit exemptions in Section 22.68.050, and describe those projects that cannot be exempt from coastal permits in Section 22.68.060. These Sections of the Development Code are derived almost entirely from the Coastal Commission Administrative Regulations and the existing Interim Development Code. However, there is one area of conflict that needs to be resolved.

Section 22.68.060.A (Non-Exempt Projects) attempts to combine two activities that are addressed separately within existing regulations: improvements to existing structures and repair/maintenance of existing structures. It also equates an ESHA buffer with the ESHA itself for purposes of permitting minor activities such as repair and maintenance. In so doing, it greatly increases the scope of coastal permitting beyond what is currently in place for the Coastal Zone – for example, one could interpret the language as written to require a Coastal Permit for repainting an existing house located in an ESHA buffer.

The Coastal Commission Administrative Regulations, in Section 13252(a), require coastal development permits for repair and maintenance activities in ESHA *only if* they involve placement or removal or rip-rap, rocks, sand or other beach or solid materials, or the presence of mechanized equipment or construction materials. Thus, minor repair and maintenance activities (painting, for example) are not subject to coastal development permits (note that this standard is provided verbatim in LCPA Development Code Section 22.68.060.K.3, setting up an internal inconsistency with Section 22.68.060.A).

Staff recommends modifications to the PC-approved Development Code Amendment 22.68.060.A, in order to resolve inconsistencies with Code Section 22.68.050.K.3, and achieve a higher degree of consistency with the Coastal Commission Administrative Regulations.

**PROPOSED AMENDMENTS, Board Action Required:**

▪ **22.68.060 – Non-Exempt Projects**

Notwithstanding the provisions of Section 22.68.050 – Exempt Projects, a Coastal Permit shall be required for all of the following projects unless the development is categorically excluded or qualifies for a De Minimis Waiver:

- A. Improvements to existing structures, ~~and repair and maintenance of existing structures.~~** Improvements to an existing structure ~~and repair and maintenance of a structure~~ if the structure is located on a beach, in a wetland, seaward of the mean high tide line, in an ESHA ~~or its buffer~~, or within 50 feet of the edge of a coastal bluff.

**Accessways & Trails**

***Approved by Board (1-15-13):***

The Board generally approved C-BIO-2.2 regarding public access and directed staff to consult with Marin County Parks for consistency with the Road and Trail Management Plan.

***Discussion of Additional Amendments:***

Following the January 15, hearing, staff from Marin County Parks confirmed that the language proposed in Policy C-BIO-2.2 is consistent with the draft Road and Trail Management Plan. That plan would encourage the department to avoid building trails within an ESHA if at all possible; however, if circumstances require it, the trail would be minimized to the smallest incursion possible and appropriate mitigation measures would be applied. The Road and Trail Management Plan will also identify extensive best management practices that address this topic.

It's also important to note that any such trail would be subject to a Coastal Permit, compliance with the LCP standards, and would be appealable to the Coastal Commission if located within 100 feet of a stream or wetland.

A minor revision to Policy C-BIO-2.2 below which would emphasize the priority to place trails outside of ESHA where feasible.

**PROPOSED AMENDMENTS, Board Action Required:**

Clean text of the proposed access/trail policy as recommended to the Board of Supervisors on January 15 is provided below. Revisions made subsequent to that hearing are provided in strike-through/underline format.

▪ **C-BIO-2 ESHA Protection**

...

2. Accessways and trails are resource dependent uses that shall be sited and designed to

protect ESHAs against significant disruption of habitat values in accordance with Policy C-BIO-2.1. Where it is not feasible to avoid ESHA, the design and development of accessways and trails shall minimize intrusions to the smallest feasible area or least impacting routes. As necessary to protect ESHAs, trails shall incorporate measures to control the timing, intensity or location of access (e.g, seasonal closures, placement of boardwalks, limited fencing, etc.).

## COMMUNITY DESIGN

### Protection of Visual Resources

***Approved by Board (12-11-12), no further action recommended:***

At the December 11, 2012 hearing, the Board did not discuss any specific changes to the Community Design policies approved by the Planning Commission. However, the Board directed staff to consider a request from EAC to insert language regarding “scenic resources” into Policy C-DES-2. As described below, the Planning Commission specifically removed a closely related term (“visual resources”) from the policy after extensive discussion on the issue. Therefore, no further revisions to this policy are recommended.

#### ***Discussion***

As approved by the Planning Commission, Community Design Policy C-DES-2 reads in part:

▪ **C-DES-2 Protection of Visual Resources.**

Ensure appropriate siting and design of structures to prevent obstruction of significant views, including views both to and along the coast as seen from public viewing areas such as highways, roads, beaches, parks, coastal trails and accessways, vista points, and coastal streams and waters used for recreational purposes. The intent of this policy is the protection of significant public views rather than coastal views from private residences where no public vistas are involved...

In their letter of December 10, 2012, EAC requested that the first sentence of this policy be modified as follows, “Ensure appropriate siting and design of structures to protect scenic resources and the magnificent visual character of Tomales Bay, and prevent the obstruction of significant views...”

The precise wording of Policy C-DES-2 was discussed at length by the Planning Commission at their hearing of September 19, 2011. As originally presented by staff, the first sentence of this policy read, “Ensure the appropriate siting and design of structures to *protect visual resources* and prevent the obstruction of significant views...” However, several Commissioners expressed concerns that the phrase “protect visual resources” was too vague and could be construed to mean that new development should not be visible from any location. Instead, the Commission chose to eliminate this phrase and focus the policy on public views to and along the coast, consistent with the Coastal Act. The language suggested by EAC is similar to the text eliminated by the Planning Commission in that it could very broadly interpreted. Accordingly, staff does not recommend any further changes to policy C-DES-2.

## COMMUNITY DEVELOPMENT

### Community Specific Policies

#### *Approved by Board (10-2-12)*

At the December 11, 2012 hearing, the Board indicated support for the Community Specific Policies section in the Built Environment Element.

#### *Discussion of Additional Amendments*

At the December 11, 2012 hearing, the issue of community character and balancing local versus visitor-serving commercial needs and uses was raised, particularly within the village of Point Reyes Station. As the commercial hub for rural West Marin, the well-defined downtown commercial area offers a diversity of retail and commercial services enjoyed by both residents and visitors alike.

The existing LCP notes that the Point Reyes Station Community Plan indicates the community has been targeted for visitor oriented commercial development because of its available land area, existing commercial services, and location. This additional commercial development should be encouraged through infill development.<sup>1</sup> The LCP also encourages development of additional overnight accommodations, as there were none at that time, in the Grandi Building and other specific sites. These provisions have been carried forward in LCPA policies C-PRS-2, C-PRS-3, and C-PRS-4.

After further consideration, staff proposes to modify C-PRS-2 to remove language that considers rezoning additional areas west of B Street, which are currently zoned C-RA:B2 (Residential Agriculture, a conventional zoning district) to C-VCR (Village Commercial/Residential). A recently completed inventory of overnight accommodations for the Coastal Zone shows ([http://www.co.marin.ca.us/depts/CD/main/lcp/PDF/2012-12-11\\_Staff\\_Report\\_with\\_Attachments\\_1-4.pdf](http://www.co.marin.ca.us/depts/CD/main/lcp/PDF/2012-12-11_Staff_Report_with_Attachments_1-4.pdf)) that the supply of such facilities has increased dramatically over the past three decades. Currently, Point Reyes Station has at least 25 rooms from hotels, motels, inns, and bed and breakfast operations, 28 private rental units, and 14 campsites at the Coast Campground in the Point Reyes National Seashore. This is a significant increase considering no overnight accommodations were available at the time the LCP was certified, as shown in an inventory conducted for the existing LCP.<sup>2</sup> In addition, the existing C-RA:B2 zoning allows bed and breakfast operations (3 or fewer guest rooms are a Permitted Use; 4 or 5 guest rooms are a Conditional Use subject to a Use Permit). Furthermore, since a number of commercially zoned parcels in the downtown area are undeveloped or underutilized, there is no foreseeable need to rezone and expand the commercial district for visitor- and local-serving commercial uses.

With regard to policy C-PRS-7, staff proposes to modify the language to clarify that it is preferable to develop the remaining two-acre portion of the Point Reyes Affordable Homes Project for a local or community serving use that provides a significant public benefit. This change is in line with the community's desire for maintaining the town's simple, rural quality and to sustain a locally based economy that balances both local and visitor serving needs.

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<sup>1</sup> Unit II, p. 37

<sup>2</sup> Unit II, Table 4: Overnight Accommodations in the Unit II Coastal Zone, p. 31

## PROPOSED AMENDMENTS, Board Action Required

- **C-PRS-2 Commercial Infill (Point Reyes Station), p. 72**

Promote commercial infill within and adjacent to existing commercial uses. ~~Consider rezoning additional areas west of B Street, which is predominantly zoned C-R-A:B-2, if it is determined that additional areas are necessary for visitor- and local-serving commercial uses. This area of town constitutes the most suitable area for visitor- and local-serving commercial expansion because it is level, has adequate space, is located adjacent to the existing commercial area, and is several blocks removed from Highway One, thus reducing potential for substantial traffic impacts as development proceeds.~~

- **C-PRS-7 Point Reyes Affordable Homes Project, p. 74**

Development of the 18.59-acre property consisting of Assessor's Parcels 119-260-02 through 06 (formerly 119-240-45), 119-240-02 through 13 (formerly 119-240-46, 57 and 58) and consisting of Areas A, B, C, D, E and F as depicted on Exhibit E, shall be subject to the following land use designations, as defined in the Marin Countywide Plan and further incorporated as Appendix G to the LCP: The land use designation for Areas A and B shall be C-MF-2 (Coastal, Multiple-Family, one to four units per acre maximum residential density). The land use designation for Area C shall be C-SF-4 (Coastal, Single-family Residential, one to two units per acre). The land use designation for Areas D and E shall be C-NC (Coastal, Neighborhood Commercial, one to 20 units per acre maximum residential density, 30% to 50% commercial floor area ratio). The land use designation for Area F shall be C-OS (Coastal, Open Space).

The entire 18.59 acres shall be subject to a single site development plan consisting of Areas A, B, C, D, E and F. The site development plan shall be subject to review and approval by the California Coastal Commission as an amendment to the LCP. Any coastal development permit or permits for development of any portion of the site shall be consistent with the approved site development plan. The site development plan shall indicate the kinds, locations, and intensities of uses allowable in accordance with the following requirements:

1. Total number of residential units on the entire 18.6 acre site shall not exceed 36.
2. Area A shall be developed with a maximum of seven detached affordable and/or market rate for-sale units ranging in size from approximately 900 to 1,155 square feet.
3. Area B shall be developed with a maximum of 27 rental affordable units ranging in size from approximately 1,440 to 1,720 square feet and a manager's unit/community building of approximately 2,180 square feet.
4. No more than two residential units may be developed within Area C.
5. A minimum of 12 public parking spaces shall be provided within Area D.
6. A minimum of two acres shall be reserved for a future ~~overnight visitor-serving facility, preferably providing lower cost services to the maximum extent feasible community-serving use or project that provides a significant public benefit, as demonstrated by the Review Authority, or an alternative commercial use deemed appropriate by the Coastal Commission~~ within Area E.
7. Future use of the approximate 18.59 acre area depicted on Exhibit E, including all wetlands shall be consistent with the LCP, including provisions which mandate a 100-foot minimum buffer as measured landward from the edge of the wetlands.

*[Adapted from Unit II New Development and Land Use Policy 8.b, p. 210]*



## ENERGY

### Wind Energy Conversion Systems (WECS) (Coastal)

At the December 11, 2012 hearing, the Board reviewed the Planning Commission-approved regulations for Wind Energy Conversion Systems (WECS) in the Coastal Zone (*LCPA Dev. Code* §22.32.190). Two renewable energy experts provided feedback based on their individual evaluations of the proposed regulations. There was general consensus among Board members that the regulations as approved by the PC would significantly limit the potential for development of WECS in the Coastal Zone. However, the Board voiced majority support of the PC-approved regulations as a means to prevent potential impacts of WECS development to visual and other important coastal resources.

Board members questioned whether the wind energy resources in the Coastal Zone are adequate enough to create demand for the type of individual small-scale WECS that would be allowed by the proposed regulations. To determine the potential for renewable energy resources such as wind and solar, the Board supports ongoing study on a countywide level. County provisions such as Marin Countywide Plan Energy Program EN-2.b (p. 3-87) and proposed LCPA Energy Program C-EN-4.a (p. 83) promote such studies going forward. The Board also suggested that staff create and maintain a database of existing and future wind turbine projects throughout the local region, and staff has begun compiling such data.

While the Board voiced majority support of the PC-approved WECS regulations at the December 11 hearing, no official action was taken on the issue and it has therefore been carried forward for final Board determination at today's hearing. Staff recommends Board approval of the PC-approved WECS regulations for the Coastal Zone as established by the following LCPA Development Code sections, with the proposed minor amendment to Section 22.32.190 as noted.

#### PROPOSED AMENDMENTS, Board Action Required

- **Section 22.32.190 – Wind Energy Conversion Systems (WECS) (Coastal)**
  - This section establishes specific land use standards for WECS in the Coastal Zone. See *LCPA Dev. Code*, p. 10.
  - Per the Board's request at the December 11, 2012 hearing, "and encourages" has been deleted from the first paragraph as shown:

***Section 22.32.190 – Wind Energy Conversion Systems (WECS) (Coastal)***

*This Section establishes permit requirements for coastal planned district and coastal conventional district zones 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 electricity from non-renewable sources.*

...

- **Section 22.64.045 – Coastal Wind Energy (-WE) Combining District**
  - This section establishes the new combining district necessary to implement the PC-approved WECS standards of Section 22.32.190. See *LCPA Dev. Code*, p. 56.
- **Section 22.130.030 - Definitions**
  - The definition for "Wind Energy Conversion System (WECS) (land use) (coastal)" differs from the WECS definition for the non-coastal area of the County, and is necessary to implement Section 22.32.190. See *LCPA Dev. Code*, p. 177.

## PUBLIC FACILITIES AND SERVICES

### Adequate Public Services

#### *Discussion of Amendments*

At the December 11, 2012 hearing, the Board did not discuss any specific changes to the Public Facilities and Services policies approved by the Planning Commission. However, during consideration of various agricultural issues, it has come to staff's attention that LCPA policies do not directly address on-site parking and access. In part, this may be because the existing certified LCP is also silent on these issues. However, to clarify that development in the coastal zone must be served by adequate and safe parking and access, your Board may wish to consider the following revisions to existing Policy C-PFS-1 as shown below.

#### **PROPOSED AMENDMENTS, Board Action Required**

- **C-PFS-1 Adequate Public Services**

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

## TRANSPORTATION

### Reducing Traffic and Congestion by Improved Parking Management

#### ***Additional Amendments Proposed***

Supervisor Kinsey has asked that the LCPA more clearly set out actions to reduce illegal parking, traffic congestion and delays, vehicle miles traveled (VMT), and emissions that contribute to climate change by providing better support for alternative means of getting people to automobile-impacted areas of the coast.

While the PC-approved draft of the LCPA establishes these objectives, specific programs to develop stable funding streams to support and fund such actions could be made more explicit, such as using parking fees to expand coastal transit opportunities.

#### ***Discussion of Additional Amendments***

Several Policies and Programs in the draft Amendments to the LCP address the issues of getting people, as opposed to their cars and trucks, to the coast's recreational opportunities more conveniently and with less impact on coastal resources and the environment in general. The relevant portions of the provisions are provided below (*see also draft LCPA, page 99-101*):

**C-TR-1 Roads in the Coastal Zone.** Work with state and federal agencies and local communities to enhance road safety, transit access, and stabilize or reduce congestion through means such as limiting local parking, and providing shuttle service to popular destinations.  
*[Adapted from Unit II Public Services Policy 4.a, p. 191, and CWP Program TR-1.o, p. 3-157].*

**C-TR-10 Adequate and Affordable Public Transportation.** Provide efficient, affordable public transportation service in and to the Coastal Zone and support expansion of alternative modes of transportation.  
*[Adapted from Unit I Public Services Policy 14, p. 49, Unit II Public Services Policy 4.c, p. 191, and CWP Goal TR-3, p. 3-162]*

**Program C-TR-10.a Encourage Additional Transit Service.** Encourage the development of new transit service routes and associated loading and turning areas, consistent with the goal of utilizing public transit to meet current and future increased use of coastal access and recreational areas. Consider the following projects:

1. Support continuation and expansion of Marin Transit's Stagecoach service to West Marin;
2. Seek installation of transit waiting shelters as appropriate;
3. Post transit schedules at transit stops; and
4. Consider utilizing the principle of "flag stops" to receive or discharge transit patrons along the transit route as a further inducement to transit patronage.

*[Adapted from Unit I Public Services Policy 14, p. 49, and Unit II Public Services Policy 4.c, p. 192]*

**C-TR-11 Reduction of Visitor Traffic Congestion in West Marin.** Consult with Caltrans, local, state, and federal parkland agencies, and local communities to provide alternatives to private automobile travel to recreational areas in the Coastal Zone.  
*[Adapted from Unit I Public Services Policy 14, p. 49, Unit II Public Services Policy 4.c, p. 191, and CWP Policy TR-3.6, p. 3-163]*

**C-TR-12 Consultation with Regional, State, and Federal Agencies.** Consult with nearby counties, state and federal agencies, and special districts regarding regional land use and transportation planning. Encourage transit providers to minimize service gaps by linking services, such as the West Marin Stagecoach and shuttle services provided by the National Park Service, where feasible. (See also C-PK-9 “Coordinate with Federal and State Parks Agencies” in the *Parks, Recreation and Visitor- Serving Uses* section).  
*[New policy, not in Unit I or II]*

These policies amply articulate the need to reduce congestion through, among other means, providing convenient and effective shuttle systems to popular destinations, managing local parking, and working with all other agencies to implement coordinated and integrated solutions.

In addition to these statements, the Board may wish to add a specific program to secure a stable revenue stream to help fund the implementation of these measures. The following addition to Program C-TR-10.a would explicitly establish the objective of creating funding to support these policies, and suggest one possible element of that program: the use of parking fees.

While many of the areas that attract visitor use and experience traffic congestion are under state and federal jurisdiction, the policies already recognize that the County will need to productively engage with these and other agencies if any progress is to be made. There is, however, encouragement that state and federal managers of already pursuing parallel goals. The National Park Service, in its Draft General Management Plan for the Golden Gate National Recreation Area calls for congestion management to shift “personal travel patterns to off-peak periods, more efficient modes (such as public transit and ridesharing) and alternative modes to offset vehicle congestion, particularly during peak periods. Tools could include improving and promoting transit options and employing congestion fees (such as parking fees).

Similarly, as of this writing several proposals by State Parks for parking management programs including automated payment machines at a number of state beaches in southern California are pending before the Coastal Commission, with staff recommendations for conditional approval.

Therefore, the following revision to Policy C-TR-10, Program C-TR-10.a is presented for Board consideration.

#### **PROPOSED AMENDMENTS, Board Action Required**

***Program C-TR-10.a Encourage Additional Transit Service.*** Encourage programs, such as the development of new transit service routes and associated loading and turning areas, parking management and enforcement, and other programs as listed below, consistent with the goal of utilizing public transit to meet current and future increased use of coastal access and recreational areas. Consider the following projects: Develop stable funding streams for such programs, potentially including congestion or parking fees, in cooperation with appropriate county, regional, state and federal agencies.

1. Support continuation and expansion of Marin Transit’s Stagecoach service to West Marin;
2. Seek installation of transit waiting shelters as appropriate;
3. Post transit schedules at transit stops; and
4. Consider utilizing the principle of “flag stops” to receive or discharge transit patrons along the transit route as a further inducement to transit patronage.

## MAPS

### Map Set 27a – 27j Categorical Exclusion Areas

#### *Discussion*

The Categorical Exclusion maps indicate categories of development that are excluded from permit requirements of the Coastal Act within a specifically defined geographic area if certain findings are made. Such exclusions will not result in a potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast. The California Coastal Commission has adopted three categorical exclusion orders for Marin County: #E-81-2, #E-81-6, and #E-82-6. The first, E-81-2, covers on-site signs, agriculturally related development, lot line adjustments, and minor roadway improvements and signing in the Unit I geographic area. The second exclusion, #E-81-6, covers the same categories of development in the Unit II area plus single-family dwellings and land divisions in Point Reyes Station and single-family dwellings in Dillon Beach, Tomales, and Olema. The third and final exclusion order, #E-82-6, applies to minor additions to single-family dwellings that would result in an increase of no more than 50% of the floor area for the entire coastal zone, as well as single-family dwellings in Oceana Marin in Dillon Beach. However, tide and submerged lands, beaches, and lots immediately adjacent to the inland extent of any beach, or of the mean high tide of the sea where there is no beach, and all lands and waters subject to the public trust are excluded.

Map Set 27a – 27j shows the areas of these categorical exclusions. The legend on all the maps has been updated to more accurately reflect the content described in the three categorical exclusion orders.

The updated maps are available online at [www.MarinLCP.org](http://www.MarinLCP.org) at [http://www.co.marin.ca.us/depts/CD/main/lcp/PDF/120213\\_All\\_LCP\\_Maps.pdf](http://www.co.marin.ca.us/depts/CD/main/lcp/PDF/120213_All_LCP_Maps.pdf). The categorical exclusion orders can be found online at <http://www.co.marin.ca.us/depts/CD/main/lcp/PDF/CatExOrders.pdf>.

#### ***No further Board Action Required***

## DEVELOPMENT CODE

### Coastal Permit Requirements and Administration

Section 22.68.040 – Categorically Excluded Projects  
Section 22.70.030 – Coastal Permit Filing, Initial Processing

### *Discussion of Amendments (Categorical Exclusion Determinations)*

At the December 11, 2012 hearing, staff presented proposed Development Code text revisions to clarify that categorical exclusion determinations are not subject to appeal. During public testimony, concerns were raised that the revisions would reduce public participation and that all determinations of Coastal Permit category, including Categorical Exclusions, should be appealable. The Board directed staff to consider the issues raised and respond at a subsequent hearing. As discussed below, staff is recommending a further revision to Development Code Section 22.68.040 to address this issue.

### **Discussion**

Pursuant to the Coastal Act and the proposed LPCA Development Code, certain categories of development are specifically excluded from Coastal Permit requirements (referred to as “categorical exclusions”). The determination of whether a particular project is categorically excluded rests with the Community Development Agency Director (Development Code Section 22.70.030.B). As a ministerial action, this determination does not require public notice and is not subject to appeal. However, notice of each project determined by the Director to be categorically excluded must be provided to the Coastal Commission. Furthermore, Section 13569 of the Coastal Commission’s regulations provides that an interested party may challenge the County’s determination of permit category by requesting a determination directly from the Coastal Commission’s Executive Director. In cases where the Executive Director and local government disagree, a final determination is made by the Coastal Commission at a public hearing. Because the Coastal Commission’s regulations govern the process described above, it is not necessary or appropriate to repeat the same procedures in the County’s Development Code. However, to provide a means for potentially interested persons to be made aware of categorical exclusion determinations, the list of projects determined to be categorically excluded could be posted on the CDA’s public notice website at the same time they are transmitted to the Coastal Commission. To implement this procedure, staff recommends the following revision to Development Code Section 22.68.040 (Categorically Excluded Projects).

### **PROPOSED AMENDMENTS, Board Action Required**

#### **22.68.040 Categorically Excluded Projects**

- A.** A project specifically designated as categorically excluded from the requirement for a Coastal Permit by Public Resources Code Section 30610(e) and implementing regulations is not subject to Coastal Permit requirements.
- B.** The Director shall maintain, **post on the Agency’s website**, and regularly transmit to the Coastal Commission a list of projects determined to be categorically excluded from the requirements of this Chapter for a Coastal permit. The list shall be available for public inspection and shall include the applicant’s name, project descriptions and location, and the date of the Director’s determination for each project.

**Note:** The previously recommended revisions to Section 22.70.030 presented in the December 11, 2012 staff report (Attachment 3, page 7) are shown below for clarity:

*Revision proposed to clarify that categorical exclusion determinations are not subject to appeal.*

#### **22.70.030 – Coastal Permit Filing, Initial Processing**

...

**B. Determination of permit category.** The Director shall determine if the proposed project is categorically excluded, qualifies for a De Minimis Waiver, or requires a Coastal Permit that does or does not require a public hearing as follows. With the exception of categorical exclusions, This determination regarding permit category may be appealed in compliance with Section 22.70.040 – Appeal of permit Category Determination.

...

#### ***Discussion of Amendments (Coastal Permit Filing, Initial Processing)***

At the October 2, 2012 hearing, the Board adopted an amendment (10/2/12 Attachment 3, pg.6) as shown below to directly integrate into the Coastal Permit process itself the existing Master Plan provisions for including contiguous properties held in the same ownership in the permit application submittal. Upon further review, small changes are proposed to the Board-approved language to give the Planning Director the discretion to waive this requirement for projects where there is no need to involve the contiguous property in the permit review and to clarify the authority to include such property even if the submitted application does not propose work there.

#### **PROPOSED AMENDMENTS, Board Action Required**

##### **22.70.030 – Coastal Permit Filing, Initial Processing**

##### **A. Application and filing...**

2. Documentation of the applicant's legal interest in all the property upon which work is proposed to be performed, and all contiguous properties under the same ownership. The area of the subject to the Coastal Permit may shall include at least all such contiguous properties under the same ownership where the Director finds that necessary to achieve the requirements of the Local Coastal Program. The area covered by a proposed project may also include multiple ownerships.

#### **Administrative Appeal for Second Units**

##### **Section 22.70.080 – Appeal of Coast Permit Decision**

#### ***Discussion of Amendments (Residential Second Units)***

During the December 11, 2012 hearing, the Board did not discuss any specific changes to proposed Housing Policies in the LCPA. However, Supervisor Kinsey expressed interest in ensuring that the LCPA maximizes opportunities to support affordable housing in the Coastal Zone. In response, staff is seeking

direction from the Board regarding the development of a new administrative appeal process for Coastal Permits associated with residential second units in the coastal zone as discussed below.

### ***Discussion***

Residential second units provide an important source of affordable housing in West Marin. During development of the LCPA, community members and affordable housing advocates expressed support for measures that would streamline the permit process for second units in the coastal zone. Pursuant to new state laws adopted in 2003 (AB 1866), local governments are no longer required to hold public hearings for either the initial local review or any subsequent local appeals of a Coastal Permit associated with a second unit. Consistent with AB 1866, the LCPA includes provisions which clarify that Coastal Permits for second units shall be processed administratively unless some other permit which requires a public hearing is involved (Development Code Section 22.70.030.B.4). However, appeals of administrative decisions have historically been considered at a public hearing before the Planning Commission and/or Board of Supervisors. Affordable housing advocates such as the Bolinas Community Land Trust have expressed concerns that the possibility of an appeal process involving a public hearing has had a chilling effect on the development of second units in Bolinas and other West Marin communities and have urged the County to develop a new administrative appeal process for Coastal Permits associated with second units in the coastal zone. This particular issue was not specifically addressed by the Planning Commission during their consideration of the LCPA. However, such a change would be consistent with state law and could further streamline the second unit permitting process in the coastal zone. If the Board is supportive of the concept, staff would prepare amendments to Development Code Chapter 22.70 to implement the change for consideration at a future hearing that will be scheduled before the LCPA is submitted to the Coastal Commission.

## **Development Code Chapter 22.62 – Coastal Zoning Districts and Allowable Uses**

### **Table 5-1-c – Allowed Uses & Permit Requirements for Coastal Agricultural & Resource-Related Districts (Residential Uses)**

### ***Discussion of Amendments***

At the December 11, 2012 hearing, the Board did not discuss any specific changes to the land use tables contained in LCPA Development Code Chapter 22.62. However, it has subsequently come to staff's attention that Table 5-1-c (Allowable Uses and Permit Requirements for Coastal Agricultural and Resource-related District) should be revised as shown below to reflect that the C-ARP (Coastal, Agricultural Residential Planned District) zoning district should allow development of a single family residence and second unit whether or not the primary use of the property is agricultural. Accordingly, the following corrections are presented for the Board's consideration.



**PROPOSED AMENDMENTS, Board Action Required**

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

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
	C-APZ Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	
RESIDENTIAL USES				
Affordable housing	U	P	U	Chapter 22.22
Group homes, 6 or fewer residents	P	P	—	22.32.080
Group homes, 7 or more residents	U	U	—	22.32.080
Guest houses	—	P(6)	P(6)	22.32.090
Home occupations	P(10)	P(10)	P(6)	22.32.100 22.32.115
Religious residential retreats	—	U	—	
Residential accessory uses and structures	P(6)	PP(6)	P(6)	22.32.130
Residential care facility, 6 or fewer individuals	P	P	—	22.32.080
Residential care facility, 7 or more individuals	U	U	—	22.32.080
Residential second units	—	PP(10)	—	22.32.140 22.32.115
Room rentals	P	P	—	
Single-family dwellings, attached or detached	U(8)	PP U	U(7)	22.62.060 Chapter 22.65
Tennis and other recreational uses	U	U	U	22.32.130

**KEY TO PERMIT REQUIREMENTS**

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

**Notes:**

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

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.66

## Development Code Chapter 22.32 – Standards for Specific Land Uses

Section 22.32.026 – Agricultural Processing Uses  
Section 22.32.027 – Agricultural Retail Sales and Facilities

### *Discussion of Amendments*

At the January 15, 2013 hearing, the Board directed staff to consider requests from the Marin County Farm Bureau, the University of California Cooperative Extension, and other members of the agricultural community to simplify provisions contained in LCPA Development Code Section 22.32.026 and 22.32.027 related to small scale agricultural processing uses and retail sales and facilities. Specifically, concerns were expressed about currently proposed amendments which would:

- Regulate agricultural processing or retail sales activity by “dollar sales volume.”
- Require Use Permit approval if a processing facility is open to the public or conducts more than 24 public tours per year.
- Limit retail sales to “unprocessed” produce (unless part of a processing facility).
- Require Design Review for retail sales conducted in a structure that exceeds a height of 15 feet or a size of 500 square feet, even if it is an existing building.

Overall, the Board was sympathetic with concerns that the agricultural processing and retail sales regulations approved by the Planning Commission are unnecessarily complex and would create barriers to on-farm agricultural processing and direct retail sales that do not exist in non-coastal areas of the County. Accordingly, revisions which would support agricultural diversification while controlling any potential impacts through the Coastal Permit are proposed in the following section for the Board's consideration.

### *Discussion*

In 2006, the inland (non-coastal) Development Code was amended to allow small agricultural processing facilities (up to 5,000 square feet) and retail sales facilities (up to 500 square feet) in agricultural zoning districts without Use Permit approval. These amendments were intended to streamline the regulatory process for farmers and ranchers interested in diversifying their operations with minor direct sales or on-site processing uses while maintaining discretionary review (though a Use Permit) for larger scale processing or sales facilities. The relevant provisions in the *non-coastal* Development Code read as follows:

#### **22.08.040 - Agricultural District Development Standards**

...

- E. Agricultural Processing.** A Use Permit is required: (1) if any agricultural products to be processed are not produced on the same site, or on other agricultural properties located in Marin County that are owned or leased by the processing facility owner or operator; or (2) if the building(s) or structure(s) used for processing activities exceed an aggregate floor area of 5,000 square feet. Agricultural products do not include additives or ingredients that are incidental to processing. New processing facilities shall comply with the stream conservation area standards established in the Countywide Plan.

- F. Sale of Agricultural Products.** A Use Permit is required: (1) if any agricultural products to be sold are not produced on the same site, or on other agricultural properties located in Marin County that are owned or leased by the sales facility owner or operator; or (2) if the building(s), structure(s), or outdoor sales area used for retail sales activities exceed an aggregate floor area of 500 square feet. New retail sales facilities shall comply with the stream conservation area standards established in the Countywide Plan

It is not known how many agricultural producers throughout the County have taken advantage of these provisions because in many cases, no planning permits would have been required. However, no complaints have been received to date by CDA enforcement staff related to the operation of these types of small retail and processing uses.

The topic of agricultural processing and retail sales facilities in the coastal zone was considered and discussed at length by the Planning Commission during their LCP workshops and hearings on agricultural issues. Under the certified LCP and Interim Zoning Code, facilities for the processing or retail sale of agricultural products require Use Permit approval. However, the Planning Commission was supportive of developing provisions to allow small sales and processing facilities as a Principal Permitted Use (without Use Permit review), but with additional limitations and conditions, and of course subject to a discretionary Coastal Permit. During 2010 and the early part of 2011, several Commissioners worked on a subcommittee which developed the detailed sales and processing facility standards that were ultimately incorporated into the Planning Commission approved Draft LCPA. However, as noted previously, Board members have been sympathetic with concerns expressed by the agricultural community that the provisions approved by the Planning Commission are unnecessarily complex and would place farms and ranches in the coastal zone at a disadvantage compared to agricultural operators elsewhere in the County. Accordingly, staff recommends that the Board consider adopting provisions for the coastal zone that more closely parallel those in effect for inland areas as shown below. As modified by staff, the amendments retain several of the key restrictions recommended by the Planning Commission and add a specific requirement for sufficient parking and access, while recognizing that other siting, design and operational characteristics of processing and sales facilities would be more appropriately addressed on a case by case basis through the Coastal Permit process. Those uses meeting the proposed standards would qualify as a "Principal Permitted Use" (not appealable to the Coastal Commission outside of geographic appeals areas) thereby addressing agricultural community concerns that the potential for extensive appeals can have a chilling effect on investing in agricultural diversification.

#### **PROPOSED AMENDMENTS, Board Action Required**

**Note:** If approved, the proposed text below (underlining omitted for clarity) would replace existing provisions in Development Code Sections 22.32.026 and 22.32.027 in their entirety (existing text to be deleted shown in Exhibit 3, p.31).

- **22.32.026 Agricultural Processing Uses**

The standards of this Section shall apply to agricultural processing as defined in Section 22.130.030 ("Agricultural Processing"). For Agricultural and Resource-Related Districts outside the Coastal Zone, see Section 22.08.040.E.

Agricultural processing is allowed as a Principal Permitted Use in the C-APZ zoning district provided it meets all of the following standards: (1) the building(s) or structure(s) used for processing activities do not exceed an aggregate floor area of 5,000 square feet; (2) with the exception of incidental additives or ingredients, agricultural products to be processed are produced on the same site, or on other agricultural properties located in Marin County that are owned or leased by the processing facility owner or operator; (3) the operator of the

processing facility is directly involved in the agricultural production on the property on which the processing facility is located; and (4) sufficient parking, ingress, and egress is provided. In addition, conditions as to the time, place, and manner of use of the processing facility may be applied as necessary through the Coastal Permit process to ensure consistency with provisions of the LCP.

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

- **22.32.026 Agricultural Retail Sales and Facilities**

The standards of this Section shall apply to the sale of agricultural products as defined in Section 22.130.030 ("Sale of Agricultural Products"). For Agricultural and Resource-Related Districts outside the Coastal Zone, see section 22.08.040.F.

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

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

**EXHIBIT #2**  
**Local Coastal Program Amendments (LCPA)**  
**Board Approved Changes**

Exhibit #2 shows the revisions the Board of Supervisors approved at the LCPA hearing on December 11, 2012 and January 15, 2013. At the December 11, 2012 hearing, the Board considered topics in the Built Environment and Socioeconomic sections of the LCPA, while topics related to Agriculture and Biological resources were addressed at the January 15, 2013 hearing. Only those areas where the Board made changes are shown.

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## AGRICULTURE

### Grading and Agricultural Operations

**Approved by Board (1-15-13), no further action required:**

The Board accepted the definition of grading proposed by staff including a grading threshold of 150 cubic yards and modifications to the description of “landform alterations” as shown below:

- **22.130.030 Definitions**

**Grading (coastal)** – Any excavation, stripping, cutting, filling, or stockpiling of soil material, or any combination thereof that exceeds 150 cubic yards of material. As used in this Development Code, grading does not include plowing, tilling, harrowing, aerating, disking, planting, seeding, weeding, fertilizing or other similar routine agricultural cultivation practices.

- **22.68.060 Non-Exempt Projects**

...  
**I. Landform alterations.** Any significant alteration of land forms including grading as defined in Section 22.130.030 and the removal or placement of vegetation on a beach, wetland, or sand dune, or within 100 feet of the edge of a coastal bluff, stream, or in areas of natural vegetation designated as environmentally sensitive habitat areas (ESHA).

### Coastal Permit for Agricultural Operations

**Approved by Board (1-15-13), no further action required:**

The Board accepted proposed revisions to Development Code Section 22.68.030 to clarify the meaning of the term “on-going agricultural operations.” There was also support for adding a description of what would be considered a “change in the intensity of water use” with respect to agricultural uses, with an additional change to clarify that a new or expanded well would require Coastal Permit approval.

- **22.68.030 Coastal Permit Required**

...  
Development is defined in Article VIII of this Development Code and is interpreted to include installation of water or sewage disposal systems, the closure of County-managed public accessways, changes in public access to the water including parking availability, and the significant alteration of landforms. Significant alteration of land forms entails the removal or placement of vegetation on a beach, wetland, or sand dune, or within 100 feet of the edge of a coastal bluff, stream, or in areas of natural vegetation designated as environmentally sensitive habitat areas (ESHA). On-going agricultural operations including cultivation, crop and animal management and grazing are not considered to be development or a change in the density or intensity of the use of land. For the purposes of this Chapter, “on-going agricultural operations”

are those which exist presently or historically, and do not entail new encroachment within 100 feet of the edge of a wetland, stream or riparian vegetation. For agricultural uses, a "change in the intensity of use of water, or access thereto" means the development of new water sources such as construction of a new or expanded well or the creation or expansion of a surface impoundment.

## Viticulture Operations

**Approved by Board (1-15-13), no further action required:**

Based on the discussion of permitting for viticulture operations provided in the January 15<sup>th</sup> staff report, the Board was supportive of allowing viticulture as a principal permitted agricultural use in agricultural zoning districts and directed staff to modify the LCPA where appropriate. Accordingly, references to "viticulture" in Policy C-AG-2 as well as Development Code Section 22.62.060.B.1 (Purpose of C-APZ District) and Land Use Table 5-1-a will be updated to reflect the change.

## Intergenerational Housing

**Approved by Board (1-15-13), no further action required:**

The Board approved revisions to the Intergenerational Housing standards contained in Development Code Section 22.32.024 to allow potential use of a vacant intergenerational home by agricultural workers or as an agricultural homestay, but not as deed restricted affordable or locally employed housing.

### ▪ 22.32.024 – Agricultural Intergenerational Homes (Coastal)

...

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

...

**F. Restrictive Covenant.** *Intergenerational housing requires the preparation and recordation of a restrictive covenant running with the land for the benefit of the County ensuring that intergenerational housing will continuously be occupied by the owner or operator's immediate family. The covenant must include, at a minimum, the following:*

1. A detailed description of the intergenerational home or homes.

2. Assurance that any change in use will be in compliance with 22.32.024.B and in conformance with applicable zoning, building and other ordinances and noting that all appropriate permits must be issued and completed prior to any change in use.
3. Assurance that the intergenerational housing will not be subdivided or sold separately from the primary agricultural legal lot.

...

## Agricultural Definitions

**Approved by Board (1-15-13), no further action required:**

The Board supported a request from the Marin County Farm Bureau to correct the definition of “livestock operations” as shown below.

- **Chapter 22.130 (Development Code Definitions)**

**Livestock Operations, Sales/Feed Lots, Stockyards (land use).** This land use consists of specialized and intensive commercial animal facilities including animal sales yards, stockyards, and cattle feedlots. Feedlots are any site where cattle are held and maintained for the purposes of feeding/fattening, for market ~~or milking~~, and where at least 60 percent of the feed is imported or purchased. Does not include slaughterhouses or rendering plants; see “Slaughterhouses and Rendering Plants.” See also, “Dairy Operations.”

...



## BIOLOGICAL RESOURCES

### ESHA Definition

***Approved by Board (1-15-13), no further action required:***

The Board approved Policy a definition for Terrestrial ESHA and minor revisions to C-BIO-1 Environmentally Sensitive Habitat Areas (ESHAs) and the definition of Environmentally Sensitive Habitat Area (Section 22.130.030) during their hearing on January 15, 2013.

### Buffer Adjustments

***Approved by Board (1-15-13), no further action required:***

On January 15, 2013 staff presented revisions to the buffer adjustment policies, C-BIO-20 (Wetland Buffer Adjustments) and C-BIO-25 (Stream and Riparian Buffer Adjustments). As compared with the PC-approved policies, the revisions are more closely aligned with Coastal Act Section 30240(b) and incorporate the requirement for “net environmental improvement” that would be applicable to any request for a buffer adjustment.

The Board approved the buffer adjustment policies subject to the following revisions, as shown in Exhibit 2, Compilation of Revisions:

1. C-BIO-20.1.b and C-BIO-25.1.b, revise as follows: “It is demonstrated that permitted development cannot be feasibly accommodated entirely outside the required buffer;”
2. C-BIO-20.3 and C-BIO-25.3 require that work required as a “net environmental improvement” be completed prior to occupancy

### Use and Management of ESHA Buffers

***Approved by Board (1-15-13), no further action required:***

The Board approved revisions to PC-approved policies C-EH-25 (Vegetation Management in Environmentally Sensitive Habitat Areas) and C-DES-11 (Minimization of Fuel Modification). The revisions clarify that new development should be sited and designed to minimize habitat disturbance or ongoing vegetation management activities within ESHA buffers.

## Prescriptive Rights/Coastal Dune Protection

***Approved by Board (1-15-13), no further action required:***

The Board approved minor revisions to Policy C-BIO-7 (Coastal Dunes) related to the use of signage and sand fencing to direct pedestrians away from dunes, and to and C-BIO-9 (Stinson Beach Dune and Beach Areas) to correct a typographical error.

## PUBLIC COASTAL ACCESS

### Map 25 Coastal, Ridge and Bay Trails

***Approved by Board (12-11-12), no further action required:***

The Board approved a modification to Map 25 (Coastal, Ridge and Bay Trails) to move the proposed Coastal Trail alignment from the existing location along Valley Ford – Franklin School Road to Highway One from Tomales north into Sonoma County. See Exhibit 4 for the revised map.

### Acquisition and Location of New Public Coastal Accessways

***Approved by Board (12-11-12), no further action required:***

The Board approved a modification to C-PA-6 in response to a request adding language to ensure trails are located in consideration for the protection of public safety, military security, fragile coastal resources, and agriculture as follows:

**C-PA-6 Acquisition and Location of New Public Coastal Accessways through Suitable Means.** Acquire additional public coastal accessways in order to enhance opportunities to reach public tidelands, to link publicly accessible beaches via lateral trails, and to avoid impacts of overuse of any single area. Acquisition shall be pursued through available means including, public purchase, tax default acquisitions, agreements with nonprofit management entities, voluntary donation, or, when permissible, dedication as a condition of a coastal project permit. When available funds or other acquisition opportunities are limited, accessways listed in the Appendix shall receive first priority. Acquisition and location of accessways shall take into account the need to protect public safety, military security, fragile coastal resources, and agriculture.

(PC app. 9/19/11, 11/23/09)

*[Adapted from Unit I Public Access Policies 9, 11, 12, and 13, pp. 8-9, and Unit II Public Access Policies 3, 4, and 5, pp. 15-22]*

**EXHIBIT #3**  
**Local Coastal Program Amendments (LCPA)**

**COMPILATION OF REVISIONS**

The following shows all revisions the Board of Supervisors has made to the PC-Approved Local Coastal Program Amendments (LCPA) up to and including the Board's January 15, 2013 public hearing. The Agriculture and Biological Resources chapters of the Land Use Plan have had relatively more revisions, and are shown in full so that the revisions can be better understood in the context of the other policies. Other revised Land Use Plan and Development Code sections are shown individually.

Revisions to the PC-approved text are shown in single ~~strike-out~~ and underline format.

# Introduction

## Introduction (p. 1 through 5)

This proposed Land Use Plan (LUP)-(LCPA) document and it's the accompanying Development Code implementation program materials described below present proposed amendments changes to the Marin County Local Coastal Program (LCP), as The proposed amendments were recommended by the Marin County Planning Commission on February 13, 2012. The proposed amendments are the result of nearly three years of public, agency and individual involvement, formal hearings, and extensive deliberation by the Planning Commission, and are now presented for public review and for consideration by the Marin County Board of Supervisors.

The proposed amendments to the Marin County LCP are contained in the following documents. These documents are available on the County's website at: [www.marinlcp.org](http://www.marinlcp.org).

- The proposed LCP "Land Use Plan (LUP) Amendments" document includes policies and programs, as well as background and introductory text for each policy section. Also included in the Land Use Plan document are a set of policy related maps and zoning maps.
- The proposed LCP "Development Code Amendments" (under separate cover) document apply to the coastal zone, as is a means of implementing the policies and programs of the LCP Land Use Plan. Coastal zone-specific portions of the Marin County Development Code are included in this document, along with the full Definitions chapter.
- Policy maps and zoning maps for the coastal zone.
- Appendices. The following Appendices constitute parts of the Local Coastal Program:
  - Appendix 1: List of Recommended Public Coastal Accessways
  - Appendix 2: Inventory of Visitor-Serving, Commercial, and Recreation Facilities in the Coastal Zone
  - Appendix 3: Coastal Village Community Character Review Checklist (Local Coastal Program Historic Review Checklist)
  - Appendix 4: Design Guidelines for Construction in Areas of Special Character and Visitor Appeal and For Pre-1930's Structures
  - Appendix 5: Seadrift Settlement Agreement
  - Appendix 6: 1977 Wagner Report "Geology for Planning, Western Marin County"
  - Appendix 7: Categorical Exclusions Orders and Maps
  - Appendix 8: Certified Community Plans
    - a. Dillon Beach Community Plan
    - b. Bolinas Gridded Mesa Plan

The remaining material (Background Reports 1 through 7) are presented for background only and do not constitute parts of the LCP.

~~Both of the two~~ The proposed Land Use Plan Amendments and the Development Code documents containing proposed amendments to the Marin County LCP are entitled "Planning Commission-Approved Recommended Draft." Before endorsing these documents, The Marin County Planning Commission held eight public hearings from August 2011 through January 2012, each focusing on

particular policy areas, to review and provide direction to staff on the policies, programs, Development Code provisions, and other contents contained in the draft LCP amendments.

~~Previously~~ Prior to the public hearings, the Planning Commission conducted nineteen public workshops from March 2009 through January 2011. These workshops also focused on particular policy areas and resulted in revisions that were reflected in a June 2011 Public Review Draft of the entire Local Coastal Program. Furthermore, ~~the~~ Board of Supervisors and Planning Commission ~~also~~ held a joint meeting on June 28, 2011 to adopt a schedule for further review of the LCP amendments and to accept public comments.

In addition to the public hearings and workshops ~~with~~ conducted by the Planning Commission, staff of the Community Development Agency conducted four public meetings in West Marin communities during 2008 and 2009, at which time the process of updating the Local Coastal Program was introduced. Four additional community workshops were held during 2011, following publication of the June 2011 Public Review Draft of the LCP. Finally, staff has conducted numerous meetings with community groups, interested organizations, other agencies, and California Coastal Commission staff. At each public workshop, hearing, and meeting, public testimony and comments were accepted, ~~and a~~ A significant number of other written and electronic communications have also been received by the Planning Commission. Valuable feedback and input was gathered during this process and has been very helpful in facilitating the development of the policies, programs, and other provisions contained in these documents.

During the ~~series of eight~~ public hearings held on the proposed LCP amendments during 2011-12, the Planning Commission ~~has reviewed all the provisions of the entire~~ Local Coastal Program, including those provisions proposed changes to be changed as well as those existing provisions proposed to be maintained as is. In reviewing LCP provisions, the Planning Commission has taken into account the comments provided by members of the public and by community groups and agencies. The Planning Commission ~~Approved Recommended~~ Draft of the proposed Land Use Plan and Development Code amendments, the maps, and the relevant Appendices, as published in February 2012, will be presented to the Board of Supervisors for consideration and possible adoption. The package of LCP amendments adopted by the Board of Supervisors will then be submitted ~~and proposed submittal~~ to the California Coastal Commission for review and certification.

~~The Marin County Coastal Zone is a landscape of unsurpassed variety and beauty. Much of the area is encompassed within federal, state, and county parks, which provide habitat protection and opportunities for public recreation. The Coastal Zone also includes several small villages, productive agriculture and mariculture areas, scattered residences, bed-and-breakfast inns, and significant amounts of open space. The Marin County Local Coastal Program (LCP) is designed to preserve the unique environment of the Coastal Zone and to encourage the protection and restoration of its coastal resources, while encouraging public enjoyment of its coastal recreation opportunities.~~

### **The Local Coastal Program (LCP)**

The Marin County Coastal Zone is a landscape of unsurpassed variety and beauty. Much of the area is encompassed within federal, state, and county parks, which provide habitat protection and opportunities for public recreation. The Coastal Zone also includes several small villages, productive agriculture and mariculture areas, scattered residences, bed-and-breakfast inns, and significant amounts of open space. The Marin County Local Coastal Program (LCP) is designed to preserve the unique environment of the Coastal Zone and to encourage the protection and restoration of its coastal resources, while encouraging public enjoyment of its coastal recreation opportunities.

~~The Local Coastal Program, or LCP,~~ is the primary document that governs land development in the Marin County Coastal Zone. The LCP guides both public and private activities that constitute “development” on land or in water. In general, constructing a dwelling, a commercial building, a road, a boat dock, or other improvements constitutes a “development” that requires a coastal permit, with specific exceptions. Furthermore, “development” includes changes in the use of land or water, even where construction is not involved. ~~Within the Coastal Zone,~~ The definition of “development” in its entirety is as follows:

**Development (coastal).** On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973(commencing with Section 4511 of the Public Resources Code).

As used in this section, “structure” includes any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

“Development does not mean a “change of organization”, as defined in California Code Section 56021 or a “reorganization”, as defined in California Code Section 56073.

## **The Coastal Zone**

The Marin County Coastal Zone is a strip of land and water defined by the California Coastal Act of 1976 that extends along the Pacific Ocean coastline. The Coastal Zone extends seaward from the shore a distance of three miles, and a variable distance landward, depending on topography (see Map 2 - Marin County Coastal Zone; only the land portion of the Coastal Zone is shown on Map 2). ~~Maps available at the Community Development Agency show the boundary of the Coastal Zone, and a more detailed description can be found in the LCP Administrative Manual.~~

## **Purpose of the Local Coastal Program**

The purpose of the LCP is to carry out the coastal resource protection policies of the California Coastal Act of 1976. Each coastal city and county in California is required by that law to prepare and implement an LCP for its portion of the Coastal Zone. Like other counties in California, Marin County has also adopted a comprehensive land use plan for its entire jurisdiction area, which extends landward well beyond the Coastal Zone boundary. Adopted in 2007, the Marin Countywide Plan and its related Community Plans guide land development throughout the County. However, in the Coastal Zone, the LCP takes precedence over these plans. Where the LCP contains specific provisions applicable to land and water development, such LCP provisions govern development activities. Policies of the Countywide Plan that are not addressed by the Coastal Act and the LCP (e.g. policies that address

education, diversity, and public health) apply throughout the entire County, both within and outside the Coastal Zone.

### **Components of the Local Coastal Program**

For purposes of submittal to the California Coastal Commission, as required by Coastal Act Section 30500, ~~the an LCP is comprised of the a~~ Land Use Plan, ~~the an~~ Implementation Program, ~~and all~~ accompanying land use and zoning maps, ~~and, where necessary, other implementing actions including those represented in the Appendices. The two key components of the LCP are the Land Use Plan (LUP) and the Implementation Program (IP).~~ The Land Use Plan contains written policies that indicate which land uses are appropriate in the various parts of the Coastal Zone. The LUP policies and programs also guide how natural resources shall be protected when land is developed, how public access to the coast shall be preserved, and how other coastal resources shall be maintained and enhanced.

~~The Marin County's LCP Land Use Plan contains chapters of the LUP are grouped in~~ three major sections: Natural Systems and Agriculture, Built Environment, and Socioeconomic. The Natural Systems and Agriculture section contains the policy chapters of Agriculture; Biological Resources; Environmental Hazards; Mariculture; and Water Resources. The Built Environment section contains the policy chapters of Community Design; Community Development; Community Specific Policies; Energy; Housing; Public Facilities and Services; and Transportation. Finally, the Socioeconomic section contains the policy chapters of Historical and Archaeological Resources; Parks, Recreation and Visitor-Serving Uses; and Public Coastal Access. The Land Use Policy maps (Map Set 18a–18m) also form part of the Land Use Plan.

~~The A~~ second major component of ~~the an~~ LCP is referred to by the Coastal Commission as the Implementation Program (IP). In Marin County's case, this component consists of the coastal zone-specific portions of the Marin County Development Code and the zoning maps of for the Coastal Zone (Map Set 29a–29l). The IP plays a central role in carrying out the policies and programs of the Land Use Plan by indicating which land uses are appropriate in each part of the Coastal Zone. Furthermore, the Code provisions of the IP contain specific requirements that apply to development projects, as well as detailed procedures for applicants to follow in order to obtain a coastal permit.

Finally, Marin County's LCP includes the resource and other maps found in the published set of maps and Appendices 1 through 8, as described above.

### **The Coastal Permit**

~~The A~~ primary tool for implementing the LCP is the “coastal permit.” ~~Most Many~~ types of land development activities require that a coastal permit be issued by Marin County. Certain projects, such as those that involve work on tidelands around the margin of Tomales Bay, require a coastal permit from the California Coastal Commission (a state agency) rather than from the County.

The Marin County Community Development Agency (CDA) is responsible for implementing the LCP and for reviewing coastal permit applications. The CDA assists property owners and developers to determine whether their proposed project requires a coastal permit, whether the coastal permit should be obtained from Marin County or the Coastal Commission, and whether other types of permits from the County may also be required. Certain coastal permits approved by Marin County are appealable to the California Coastal Commission by an interested party who does not agree with the County's decision regarding the permit. Such permits are known as “appealable” permits (see ~~the categorical exclusion areas as shown on Maps 27a–27k and~~ appeal and permit jurisdiction areas on Maps 28a and 28b).



**Interpretation of the Land Use Plan** *(Note: this section is being replaced with a new chapter related to Policy Interpretation)*

**Policy Interpretation.** For consistency with the Marin Countywide Plan and other County documents, most of the policies contained in the LUP have been written in the imperative form. In other words, the policy sentence begins with a verb that gives instructions or directions (for example, “limit roads in the Coastal Zone to two lanes” or “preserve and restore structures with special character.”) Where the imperative form is used, the policy should be interpreted as being a mandatory requirement which, if written in a “subject verb” format, would incorporate the term “shall” (for example, “roads in the Coastal Zone shall be limited to two lanes” or “structures with special character shall be preserved and restored”). Alternatively, a policy statement which incorporates the term “should” is not mandatory, but strongly recommended, whereas a policy statement which uses “may” is permissive. Finally, the term “including” should be interpreted to mean “including but not limited to...”

**Conflicts with existing laws.** The LCP is guided by all applicable laws, and none of the provisions of the LCP will be interpreted by the County in a manner which violates those local, state, or federal laws. In particular, as consistent with Coastal Act Section 30010, Marin County will not grant or deny a permit in a manner that would take or damage private property for public use, without the payment of just compensation. The term “take” derives from the Fifth Amendment of the U.S. Constitution, which states, in part: “. . . nor shall private property be taken for public use, without just compensation.”

**Effects of headings and titles.** Each LUP policy is accompanied by a heading or title. These are provided for convenience only. To the degree that these headings or titles conflict with the text they accompany, the text shall govern.

**Relationship to community plans.** Community plans are considered part of the Marin Countywide Plan (CWP) and supplement the CWP by providing local goals and objectives that pertain to an individual community. With the exception of Dillon Beach and the Bolinas Gridded Mesa area, existing community plans in Marin’s coastal zone were not certified by the Coastal Commission and thus are not a formal part of the LCP. However, the provisions of these plans do govern any permits issued under the CWP, such as Design Review and Use Permits, which are applicable to a majority of development in the Coastal Zone. In addition, the LUP incorporates many community plan policies that were identified by members of the communities as being appropriate to be part of the LCP. Accordingly, although the community plans themselves are separate documents from the LCP, they remain as important and relevant policy guides for development in their respective communities.

## **Administrative Manual and Appendices**

As noted previously, Appendices 1 through 8 constitute part of the LCP. These Appendices contain elements that are essential to the interpretation and application of Land Use Plan policies. For instance, Appendix 2 contains the list of recommended Public Coastal Accessways referred to in Land Use Plan Policy C-PA-6 “Acquisition of New Public Coastal Accessways through Suitable Means.” To improve readability of the Land Use Plan, this detailed list has been placed in an Appendix rather than in the body of the Land Use Plan itself.

The Administrative Manual and remaining material (Background Reports 1 through 7) Appendices contains background and supporting information that is intended to assist permit applicants and members of the public. The materials contained in these sections Background Reports are not part of the LCP for purposes of the California Coastal Act. The Administrative Manual contains the following items:

- ◆ ~~“Categorical Exclusion Orders,” which are documents adopted by the California Coastal Commission in order to exempt certain specified developments, as provided by law, from the need to obtain a coastal permit. (The Categorical Exclusion Orders require approval by the Coastal Commission under procedures separate from those that apply to LCPs, and therefore they are not part of the LCP)~~
- ◆ ~~A chart entitled “When Is a Coastal Permit Required?” that describes various types of development projects and indicates whether or not a coastal permit is required.~~
- ◆ ~~Maps of the Coastal Zone, and maps of areas in which a coastal permit decision may be appealed to the California Coastal Commission~~
- ◆ ~~Guidelines for development in mapped districts called “Areas of Special Character and Visitor Appeal” (formerly called “historic preservation” areas)~~
- ◆ ~~Coastal permit application forms and other forms~~
- ◆ ~~Development Approval Process in Detail (a comprehensive description of coastal permits and how they are related to other County land use permits, as well as a brief history of the Marin County LCP)~~

The Appendices are as follows:

- ~~Appendix 1: Policies of Chapter 3 of the California Coastal Act of 1976~~
  - ~~Appendix 2: Local Coastal Program Framework~~
  - ~~Appendix 3: Unit I Existing and Proposed Policy Comparison~~
  - ~~Appendix 4: Unit II Existing and Proposed Policy Comparison~~
  - ~~Appendix 5: List of Recommended Public Coastal Accessways~~
  - ~~Appendix 6: Inventory of Visitor Serving, Commercial, and Recreational Facilities in the Coastal Zone~~
  - ~~Appendix 7: Coastal Village Community Character Review Checklist~~
  - ~~Appendix 8: Design Guidelines for Construction in Areas of Special Character and Visitor Appeal and for Pre-1930’s Structures~~
  - ~~Appendix 9: Seadrift Settlement Agreements~~
- 
- Appendix 1: List of Recommended Public Coastal Accessways
  - Appendix 2: Inventory of Visitor-Serving, Commercial, and Recreation Facilities in the Coastal Zone
  - Appendix 3: Coastal Village Community Character Review Checklist (Local Coastal Program Historic Review Checklist)
  - Appendix 4: Design Guidelines for Construction in Areas of Special Character and Visitor Appeal and For Pre-1930’s Structures
  - Appendix 5: Seadrift Settlement Agreement
  - Appendix 6: 1977 Wagner Report “Geology for Planning, Western Marin County”
  - Appendix 7: Categorical Exclusions Orders and Maps
  - Appendix 8: Certified Community Plans:
    - a. Dillon Beach Community Plan
    - b. Bolinas Gridded Mesa Plan

The Background Reports are as follows:

1. Policies of Chapter 3 of the California Coastal Act of 1976
2. Local Coastal Program Framework, including background information about the history of the LCP, how coastal permit requirements are implemented, and related materials
3. Unit I Existing and Proposed Policy Comparison
4. Unit II Existing and Proposed Policy Comparison
5. Biological Text Excerpts from Unit I and II LCP
6. Land Use Analysis
7. Agricultural Land Analysis

[BOS app. 10/2/12]

# Interpretation of the Land Use Plan (INT)

## Policies

### **Background**

The Marin County Local Coastal Program (LCP) is the primary document that governs land development in the Marin County Coastal Zone. However, the policies of the LCP must be applied and interpreted within the context of other applicable Local, State, and Federal laws, as well as other local plans, policies and regulations. The following policies apply to the interpretation of all policies within the Natural Systems and Agriculture, Built Environment, and Socioeconomic Sections of the Land Use Plan.

**C-INT-1 Consistency with Other Law.** The policies of the Local Coastal Program are bound by all applicable Local, State and Federal laws, and none of the provisions of the LCP will be interpreted by the County in a manner which violates those laws. In particular, as required by the Coastal Act, Public Resources Code Section 30010, Marin County shall not grant or deny a permit in a manner that would take or damage private property for public use, without the payment of just compensation therefor. This policy is not intended to increase or decrease the rights of any property owner under the Constitutions of the State of California or the United States.

**C-INT-2 Precedence of LCP.** The LCP supersedes and takes precedence over other local plans, policies and regulations, including any conflicting provisions of the Countywide Plan, Community Plans and relevant sections of the Marin County Code. Provisions that are not addressed by the Coastal Act and the LCP (e.g. policies that address education, diversity, public health, etc.) that apply throughout the County, also apply within the Coastal Zone. Where conflicts occur between one or more provisions of the LCP such conflicts shall be resolved in a manner which on balance is the most protective of significant coastal resources. Broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

**C-INT-3 Community Plans.** Community plans are part of the Marin Countywide Plan (CWP), and are implemented through measures such as Design Review and Use Permits. The existing Dillon Beach and Bolinas Gridded Mesa community plans have been certified by the Coastal Commission and made part of the LCP; all other community plans have not. However, the public LCP process identified many community plan policies that have been directly incorporated into, and will be implemented through, the LCP.

**C-INT-4 Terminology.** The following rules of interpretation shall apply, consistent with Marin County Development Code Sec.20.02.020.

1. Where the imperative form of a verb is used to start a policy, the policy will be interpreted as being a mandatory requirement which, if written in a "subject-verb" format, would incorporate the term "shall." When used in the Land Use Plan, the words "shall," "will," "is to," and "are to" are always mandatory. "Should" is not mandatory but is strongly recommended; and "may" is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the natural construction of the word indicates otherwise.

"Including" means "... including but not limited to. . .".

2. Policy headings and titles are provided for convenience only. To the degree that these headings or titles conflict with the text they accompany, the text shall govern.

[BOS app. 10/2/2012]

## Agriculture (AG)

### Policies

**C-AG-1 Agricultural Lands and Resources.** Protect agricultural land, continued agricultural uses and the agricultural economy by maintaining parcels large enough to sustain agricultural production, preventing conversion to non-agricultural uses, and prohibiting uses that are incompatible with long-term agricultural production or the rural character of the County's Coastal Zone. Preserve important soils, agricultural water sources, and forage to allow continued agricultural production on agricultural lands.

(PC app. 10/10/11, 1/24/11)

*[Adapted from Unit II Agriculture Policy 1, p. 98, and CWP Goal AG-1, p. 2-157]*



**C-AG-2 Coastal Agricultural Production Zone (C-APZ).** Apply the Coastal Agricultural Production Zone (C-APZ) to preserve privately owned agricultural lands that are suitable for land-intensive or land-extensive agricultural productivity, that contain soils classified as Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, or Grazing Land capable of supporting production agriculture, or that are currently zoned C-APZ. Ensure that the principal use of these lands is agricultural, and that any development shall be accessory and incidental to, in support of, and compatible with agricultural production.

~~For the purposes of~~ In the C-APZ zone, the principal permitted use shall be agriculture, ~~defined as follows:~~

1. uses of land for the breeding, raising, pasturing, and grazing of livestock;
2. the production of food and fiber;
3. the breeding and raising of bees, fish, poultry, and other fowl;
4. the planting, raising, harvesting and producing of agriculture, aquaculture, horticulture, viticulture, ~~viticulture~~, vermiculture, forestry crops, and plant nurseries;
5. substantially similar uses of an equivalent nature and intensity; and
6. accessory structures or uses appurtenant and necessary to the operation of agricultural uses, including one farmhouse per legal lot, one intergenerational home, agricultural worker housing, limited agricultural product sales and processing, educational tours, agricultural homestay facilities with three or fewer guest rooms, barns, fences, stables, corrals, coops and pens, and utility facilities (not including wind energy conversion systems and wind testing facilities).

~~Viticulture is a permitted use.~~ Conditional uses in the C-APZ zone include additional agricultural uses and non-agricultural uses including residential development potentially up to the zoning density, consistent with Policies C-AG-7, 8 and 9.

Development shall not exceed a maximum density of 1 residential unit per 60 acres. Densities specified in the zoning are maximums that may not be achieved when the standards of the Agriculture policies below and other relevant LCP policies are applied.

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

(PC app. 10/10/11, 1/24/11)

[Adapted from Unit II Agriculture Policies 2 and 3, p. 98, and CWP Program AG-1.g, p. 2-162]

**Program C-AG-2.a Allowed Uses: Use allowed by right. No permit required.** Seek to clarify for the agricultural community those agricultural uses that are allowed by right and for which no permit is required. These include the Agricultural Exclusions from the existing Categorical Exclusion Orders. Clarify or add to these orders to specifically incorporate agricultural uses as defined in the LCP, including commercial gardening, crop production, dairy operations, beekeeping, livestock operations (grazing), livestock operations (large animals), and livestock operations (small animals). Review aspects of agricultural operations that are not currently excluded from coastal permit requirements to determine if there are additional categories of agricultural developments that do not cause adverse environmental impacts and, hence, could be eligible additions to the categorical exclusion.

[BOS app. 10/2/2012]

(PC app. 10/10/11, 1/24/11)

[New program, not in Unit I or II]

~~**Program C-AG-2.b Develop Implementation Measures for the CAPZ.**~~ (Program C-AG-2.b implemented by Development Code Section 22.62.060.B.1 and Table 5.1, deleted 1/23/12)

~~**Program C-AG-2.c Agricultural Worker Housing on Agricultural Lands.**~~ (Program C-AG-2.c implemented by Development Code Section 22.32.028, deleted 1/23/12)

**Program C-AG-2.d Amnesty Program for Unpermitted and Legal Non-Conforming Agricultural Worker Housing Units.**

Support the establishment of an amnesty program for unpermitted and legal non-conforming agricultural worker housing units in order to increase the legal agricultural worker housing stock and guarantee the health and safety of agricultural worker housing units. A specific period of time will be allowed for owners of illegal units to register their units and make them legal without incurring fines, along with written assurances of the long-term use by agricultural workers and their families. Any such program must be consistent with LCP requirements related to the type, location and intensity of land uses as well as applicable resource protection policies.

[BOS app. 10/2/2012]

(PC app. 1/9/12, 1/24/11)

[New program, not in Unit I or II]





**Program C-AG-2.e Community-Specific Retail Sales Policies.** Policies should be developed in the LCP's Community Development section, as appropriate, to address the concerns of specific communities with respect to retail sales (roadside especially). As necessary, greater constraints on these activities could be specified for individual communities or roadway segments than the general provisions in the LCP's Agriculture section (up to and including, for example, the possibility of specifying an outright prohibition of roadside agricultural sales in a particular area or along a particular stretch of roadway).

(PC app. 1/9/12, 10/10/11, 1/24/11)

*[New program, not in Unit I or II]*

*(Note: Other agricultural sales and processing provisions originally included in Program C-AG-2.e implemented by Development Code Section 22.32.026 and 22.32.027)*

**Program C-AG-2.f Facilitate Agricultural Tourism.**

Review agricultural policies and zoning provisions and consider seeking to add educational tours, homestays and minor facilities to support them as a Categorical Exclusion.

(PC app. 10/10/11, 1/24/11)

*[New program, not in Unit I or II]*



**C-AG-3 Coastal Agricultural Residential Planned Zone (C-ARP).** Apply the Coastal Agricultural Residential Planned Zone (C-ARP) designation to lands adjacent to residential areas, and at the edges of Agricultural Production Zones in the Coastal Zone that have potential for agricultural production but do not otherwise qualify for protection under Policy C-AG-2. The intent of the C-ARP Zone is to provide flexibility in lot size and building locations in order to:

1. Promote the concentration of residential and accessory uses to maintain the maximum amount of land available for agricultural use, and
2. Maintain the visual, natural resource and wildlife habitat values of subject properties and surrounding areas. The C-ARP district requires the grouping of proposed development.

(PC app. 10/10/11, 1/24/11)

*[Adapted from Interim County Code Section 22.57.040. This policy also carries forward the concept of Unit I Agriculture Policy 30, p. 35]*

**~~Program C-AG-3.a Protect Agriculture Use Where Combined with Residential Use (C-ARP).~~**

*(Program C-AG-3.a implemented by Development Code Section 22.62.060.B.2, Table 5-1, and Section 22.65.050, deleted 1/23/12)*

**C-AG-4 C-R-A (Coastal, Residential, Agricultural) District.** Apply the C-R-A zoning district to provide areas for residential use within the context of small-scale agricultural and agriculturally-related uses, subject to specific development standards.



(PC app. 10/10/11, 1/24/11)

*[Adapted from Interim County Code Section 22.57.020]*

~~**Program C-AG-4.a Provide for Small Scale Agriculture Combined with Residential (C-R-A).**~~  
(Program C-AG-4.a implemented by Development Code Section 22.62.070.B.1 and Table 5-2,  
deleted 1/23/12)

**C-AG-5 Intergenerational Housing.** Support the preservation of family farms by facilitating multi-generational operation and succession. In addition to the farmhouse, up to two additional dwelling units per legal lot may be permitted in the C-APZ designation for members of the farm operator's or owner's immediate family. Such intergenerational family farm homes shall not be subdivided from the primary agricultural legal lot, and shall be consistent with the standards of *LCP Policy C-AG-7* and the building size limitations of *Policy C-AG-9*. Such intergenerational homes shall not be subject to the requirement for an Agricultural Production and Stewardship Plan (*C-AG-8*), permanent agricultural conservation easement (*C-AG-7*), nor shall occupants be required to be actively and directly engaged in the agricultural use of the land. An equivalent density of 60 acres per unit shall be required for each home, including any existing homes. No Use Permit shall be required for the first intergenerational home on a qualifying lot, but a Use Permit shall be required for a second intergenerational home.

(PC app. 2/13/12, 10/10/11, 1/24/11)

*[New policy, not in Unit I or II]*

**C-AG-6 Non-Agricultural Development of Agricultural Lands.** Require that non-agricultural development, including division of agricultural lands, shall only be allowed upon demonstration that long-term productivity on each parcel created would be maintained and enhanced as a result of such development. In considering divisions of agricultural lands in the Coastal Zone, the County may approve fewer parcels than the maximum number of parcels allowed by the Development Code, based on site characteristics such as topography, soil, water availability, environmental constraints and the capacity to sustain viable agricultural operations.

(PC app. 10/10/11, 1/24/11)

*[Adapted from CWP Policy AG-1.5, p. 2-158, and consistent with Coastal Act Policy 30241 and 30242]*

**C-AG-7 Development Standards for the Agricultural Production Zone (C-APZ) Lands.**

Proposed development in the C-APZ zone shall be designed and constructed to preserve agricultural lands and to be consistent with all applicable standards and requirements of the LCP, and in particular the policies of the Natural Systems and Agriculture Element of the LUP.

**A. Standards for Agricultural Uses in the C-APZ:**

All of the following development standards apply:

1. Permitted development shall protect and maintain continued agricultural use and contribute to agricultural viability. Development of agricultural facilities shall be sited to avoid agricultural land (i.e., prime agricultural land or other land suitable for agriculture) whenever possible, consistent with the operational needs of agricultural production. If use of agricultural land is necessary, prime agricultural land shall not be converted if it is possible to utilize other lands suitable for agricultural use. In addition, as little agricultural land as possible shall be converted.

*[BOS app. 10/2/2012, 11/13/2012]*

2. Development shall be permitted only where adequate water supply, sewage disposal, road access and capacity and other services are available to support the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats, have significant

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

3. Permitted development shall have no significant adverse impacts on environmental quality or natural habitats, and shall meet all other applicable policies, consistent with the LCP.
4. In order to retain the maximum amount of land in agricultural production or available for future agricultural uses, farmhouses, intergenerational homes, and agricultural homestay facilities shall be placed in one or more groups along with any non-agricultural development on a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space.

[BOS app. 10/2/2012]

**B. Standards for Non-Agricultural Uses:**

In addition to the standards of Section A. above, all of the following development standards apply to non-agricultural uses, including division of agricultural lands or construction of two or more dwelling units (excluding agricultural worker or intergenerational housing). The County shall determine the density of permitted residential units only upon applying Policy C-AG-6 and the following standards and making all of the findings listed below.

1. In order to retain the maximum amount of land in agricultural production or available for future agricultural use, homes, roads, residential support facilities, and other non-agricultural development shall be placed in one or more groups on a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space. Proposed development shall be located close to existing roads, or shall not require new road construction or improvements resulting in significant impacts on agriculture, natural topography, major vegetation, or significant natural visual qualities of the site. Proposed development shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations and shall be designed and sited to avoid hazardous areas. ~~Any new parcels created shall have building envelopes outside any designated scenic protection area.~~

[BOS app. 10/2/2012]

2. The creation of a homeowners' or other organization and/or the submission of an Agricultural Production and Stewardship Plan (APSP) may be required to provide for the proper utilization of agricultural lands and their availability on a lease basis or for the maintenance of the community's roads, septic or water systems.
3. Consistent with state and federal laws, a permanent agricultural conservation easement over that portion of the property not used for physical development or services shall be required for proposed land divisions, non-agricultural development, and residential projects, other than a farmhouse, agricultural worker housing, or intergenerational housing, to promote the long-term preservation of these lands. Only agricultural and compatible uses shall be allowed under the easement. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that each will be retained as a single unit and will not be further subdivided.



4. Proposed development shall only be approved after making the following findings:

- a. The development is necessary because agricultural use of the property would no longer be feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.
- b. The proposed development will not conflict with the continuation or initiation of agricultural uses on that portion of the property that is not proposed for development, on adjacent parcels, or on other agricultural parcels within one mile of the perimeter of the proposed development.
- c. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development without extending urban services.

(PC app. 2/13/12, 1/9/11, 1/24/11)

*[Adapted from Unit II Agricultural Policies 4 and 5, pp. 98-99. This policy also carries forward Unit I Agriculture Policy 30, p.35.]*

### **C-AG-8 Agricultural Production and Stewardship Plans.**

1. ~~A master plan may require s~~Submission of an Agricultural Production and Stewardship Plan (APSP). ~~An APSP shall also be required for approval of land division or non-agricultural development of Agricultural Production Zone (C-APZ) lands when the master plan requirement has been waived,~~ except as provided for in (3) below.  
[BOS app. 10/2/2012]
2. The purpose of an APSP prepared and submitted for land division or for residential or other non-agricultural development of C-APZ lands is to ensure that long-term agricultural productivity will occur and will substantially contribute to Marin's agricultural industry. Such a plan shall clearly identify and describe existing and planned agricultural uses for the property, explain in detail their implementation, identify on-site resources and agricultural infrastructure, identify product markets and processing facilities (if appropriate), and demonstrate how the planned agricultural uses substantially contribute to Marin's agricultural industry. An APSP shall provide evidence that at least 95% of the land will remain in agricultural production or natural resource protection and shall identify stewardship activities to be undertaken to protect agriculture and natural resources. An APSP shall be prepared by qualified professionals with appropriate expertise in agriculture, land stewardship, range management, and natural resource protection. The approval of a development proposal that includes an APSP shall include conditions ensuring the proper, long-term implementation of the plan.
3. The requirement for an APSP shall not apply to agricultural worker housing or to intergenerational housing units. The APSP may be waived for residences and residential accessory buildings or structures to be occupied or used by the property owner(s) or lessee who is directly engaged in the production of agricultural commodities for commercial purposes on the property. It may also be waived for non-agricultural land uses when the County finds that the proposal will enhance current or future agricultural use of the property and will not convert the property to primarily residential or other non-agricultural use, as evidenced by such factors as bona fide commercial agricultural production on the property, the applicant's history and experience in production agriculture, and the fact that agricultural infrastructure (such as fencing, processing facilities, marketing mechanisms, agricultural worker housing, or agricultural land leasing opportunities) has been established or will be enhanced.
4. Projects subject to the potential requirement of preparing an APSP should be referred to such individuals or groups with agricultural expertise as appropriate for analysis and a recommendation. Such individuals or groups should also be requested to periodically review and evaluate the effectiveness of the APSP program.

(PC app. 2/13/12, 10/10/11, 1/24/11)

*[Adapted from CWP Program AG-1.b, pp. 2-160 and 2-161]*

**Program C-AG-8.a Commercial Agricultural Production.** Develop criteria and standards for defining commercial agricultural production so that APSPs can differentiate between commercial agricultural production and agricultural uses accessory to residential or other non-agricultural uses.

(PC app. 10/10/11, 1/24/11)

*[New program, not in Unit I or II]*

**C-AG-9 Residential Development Impacts and Agricultural Use.** Ensure that lands designated for agricultural use are not de facto converted to residential use, thereby losing the long-term productivity of such lands.

1. Residential development shall not be allowed to diminish current or future agricultural use of the property or convert it to primarily residential use.
2. Any proposed residential development subject to a Coastal Permit shall comply with LCP policies including ensuring that the mass and scale of new or expanded structures respect environmental site constraints and the character of the surrounding area. Such development must be compatible with ridge protection policies and avoid tree-cutting and grading wherever possible.

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

- a. The applicant's history of production agriculture.
  - b. How long term agricultural use of the property will be preserved — for example, whether there is an existing or proposed dedication or sale of permanent agricultural easements or other similar protective agricultural restrictions such as Williamson Act contract or farmland security zone.
  - c. Whether long term capital investment in agriculture and related infrastructure, such as fencing, processing facilities, market mechanisms, agricultural worker housing or agricultural leasing opportunities have been established or are proposed to be established.
  - d. Whether sound land stewardship practices, such as organic certification, riparian habitat restoration, water recharge projects, fish-friendly farming practices, or erosion control measures, have been or will be implemented.
  - e. Whether the proposed residence will facilitate the ongoing viability of agriculture such as through the intergenerational transfer of existing agricultural operations.
3. In no event shall a single-family residence subject to these provisions exceed 7,000 square feet in size. Where one or two intergenerational residence units are allowed in the C-APZ zone, the aggregate residential development on the subject legal lot shall not exceed 7000 square feet.
  4. However, agricultural worker housing, up to 540 square feet of garage space for each residence unit, agricultural accessory structures, and up to 500 square feet of office space in the farmhouse used in connection with the agricultural operation on the property shall be excluded from the 7,000 square foot limitation.
  5. The square footage limitations noted in the above criteria represent potential maximum residence unit sizes and do not establish a mandatory entitlement or guaranteed right to development.

(PC app. 10/10/11, 1/24/11)

*[Adapted from CWP Program AG-1.a, pp.2-159 and 2-160]*

**C-AG-10 Marin Agricultural Land Trust (MALT) and Other Methods of Preserving Agriculture.** Support the objectives of the Marin Agricultural Land Trust (MALT) to protect agricultural lands through the transfer, purchase, or donation of development rights or agricultural conservation easements on agricultural lands. Support and encourage action by MALT in the Coastal Zone to preserve agricultural land for productive uses. Support the use of the County's adopted model agricultural easement,

implementation of Transfer of Development Rights (TDR) programs and similar innovative techniques to permanently preserve agricultural lands.

(PC app. 10/10/11, 1/24/11)

*[Adapted from Unit II Agriculture Policy 7, p. 101]*

## Biological Resources (BIO)

### Policies

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

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

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

- ~~2. Protect ESHAs against disruption of habitat values, and only allow uses within those areas that are dependent on those resources. Disruption of habitat values occurs when the physical habitat is significantly altered or when species diversity or the abundance or viability of species populations is reduced. The type of proposed development, the particulars of its design, and its location in relation to the habitat area, will affect the determination of disruption. Control public access to ESHAs, including the timing, intensity, and location of such access, to minimize disturbance to wildlife. Avoid fences, roads, and structures that significantly inhibit wildlife movement, especially access to water. (relocated text to C-BIO-2)~~
- ~~3. In areas adjacent to ESHAs and parks and recreation areas, site and design development to prevent impacts that would significantly degrade those areas, and to be compatible with the continued viability of those habitat and recreation areas. (relocated text to C-BIO-3)~~

(PC app. 1/23/12, 12/1/11, 1/24/11)

[Adapted from Unit I Habitat Protection Policies 24 and 25, p. 34, and Unit II Natural Resources Policy 5, p. 74]

**C-BIO-2 ESHA Protection Development Proposal Requirements in ESHAs.** ~~Allow development in or adjacent to an ESHA only when the type of development proposed is specifically allowed in the applicable Biological Resources Policies of the LCP. Consistent with Coastal Act Sections 30233 and 30236, development in wetlands, estuaries, streams and riparian habitats, lakes and portions of open coastal waters are limited as provided in C-BIO-14 through C-BIO-26.~~

[BOS app. 10/2/2012]

- ~~1. Prioritize avoidance of land use and development impacts to ESHAs. Where this is not feasible, Protect ESHAs against disruption of habitat values, and only allow uses within those areas that are dependent on those resources or otherwise provided in C-BIO-14 (Wetlands), C-BIO-15 (Diking, Filling, Draining and Dredging) or C-BIO-24 (Coastal Streams and Riparian Vegetation). Disruption of habitat values occurs when the physical habitat is significantly altered or when species diversity or the abundance or viability of species populations is reduced. The type of proposed development, the~~



particulars of its design, and its location in relation to the habitat area, will affect the determination of disruption. *(relocated text from PC-Approved C-BIO-1.2)*

[BOS app. 10/2/2012, 11/13/2012]

2. Accessways and trails are resource dependent uses that shall be sited and designed to protect ESHAs against significant disruption of habitat values in accordance with Policy C-BIO-2.1. The design and development of accessways and trails shall minimize intrusions to the smallest feasible area or least impacting routes. As necessary to protect ESHAs, trails shall incorporate measures to control the timing, intensity or location of access (e.g., seasonal closures, placement of boardwalks, limited fencing, etc.). Control public access to ESHAs, including the timing, intensity, and location of such access, to minimize disturbance to wildlife. *(relocated text from PC Approved C-BIO-1.2)*

[BOS app. 11/13/2013, 1/15/2013]

3. Avoid fences types, roads, and structures that significantly inhibit wildlife movement, especially access to water. *(relocated text from PC-Approved C-BIO-1.2)*

[BOS app. 10/2/2012]

4. ~~Except for those limited uses provided in C-BIO 2.1, C-BIO 14 (Wetlands), C-BIO 15 (Diking, Filling, Draining and Dredging), and C-BIO 24 (Coastal Streams and Riparian Vegetation), or as allowed pursuant to C-EH 25 (Vegetation Management in an ESHA), maintain ESHAs in their natural condition. Any permitted development in an ESHA. Such uses must also meet the following general requirements:~~

- a. ~~There is no feasible less environmentally damaging alternative.~~
- b. ~~Mitigation measures are provided that will eliminate adverse environmental effects when possible, or, when elimination is not possible, will minimize and reduce adverse environmental effects to less than significant levels.~~
- c. ~~Disruption of the habitat values of the resources is avoided.~~

[BOS app. 11/13/2012]

4. Development proposals within or adjacent to ESHA will be reviewed subject to a biological site assessment prepared by a qualified biologist hired by the County and paid for by the applicant. Any development must also be determined to conform to all applicable Biological Resources policies in order to be permitted. This determination shall be based upon a site assessment which shall The purpose of the biological site assessment is to confirm the extent of the ESHA, document any site constraints and the presence of other sensitive biological resources, recommend buffers, development timing, mitigation measures or precise required setbacks, provide a site restoration program where necessary, and provide other information, analysis and modifications appropriate to protect the resource necessary to demonstrate compliance with the LCP.

[BOS app. 10/2/2012]

(PC app. 12/1/11, 6/28/10)

*[Adapted from the concept of Unit II Natural Resources Policy 5.b, p. 74]*

**C-BIO-3 ESHA Buffers. ~~Environmentally Sensitive Habitats of Rare or Endangered Species and Unique Plant Communities.~~** *(Deleted 12/1/11)*

1. In areas adjacent to ESHAs and parks and recreation areas, site and design development to prevent impacts that would significantly degrade those areas, and to be compatible with the continued viability of those habitat and recreation areas. *(relocated text from PC-Approved C-BIO-1.3)*

2. Provide buffers for wetlands, streams and riparian areas=vegetation in accordance with C-BIO-19 and C-BIO-24, respectively.

[BOS app. 10/2/2012, 11/13/2012]

3. Establish buffers for terrestrial ESHA to provide separation from development impacts. Maintain such buffers in a natural condition, allowing only those uses that will not significantly degrade the habitat. Buffers for terrestrial ESHA shall be 50 feet, a width that may be adjusted by the County as appropriate to protect the habitat value of the resource. Such adjustment shall be made on the basis of a biological site assessment supported by evidence that includes but is not limited to:

- a. Sensitivity of the ESHA to disturbance;
- b. Habitat requirements of the ESHA, including the migratory patterns of affected species and tendency to return each season to the same nest site or breeding colony;
- c. Topography of the site;
- d. Movement of stormwater;
- e. Permeability of the soils and depth to water table;
- f. Vegetation present;
- g. Unique site conditions;
- h. Whether vegetative, natural topographic, or built features (e.g., roads, structures) provide a physical barrier between the proposed development and the ESHA;
- i. The likelihood of increased human activity and disturbance resulting from the project relative to existing development.

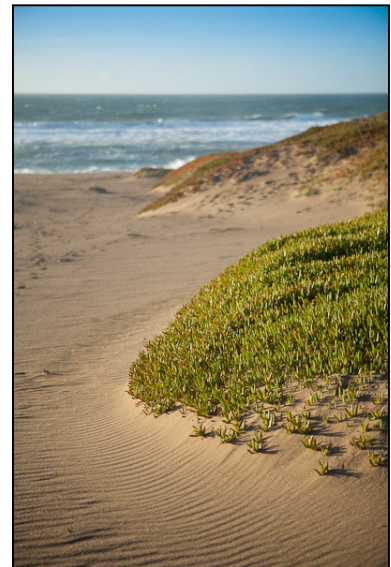
[BOS app. 10/2/2012, 11/13/2012]

**C-BIO-4 Protect Major Vegetation.** Require a Coastal Permit for the removal or harvesting of major vegetation. Coastal Permits shall allow the management or removal of major vegetation where necessary to minimize risks to life and property or to promote the health and survival of surrounding vegetation native to the locale, while avoiding adverse impacts to an ESHA or its buffer, coastal waters, and public views, and shall not conflict with prior conditions of approval, consistent with Policy C-EH-2524 (Vegetation Management in an ESHA).

[BOS app. 10/2/2012]

(PC app. 2/13/12, 1/23/12, 6/28/10)

[Adapted from Unit I Habitat Protection Policy 22, p. 34, and Interim County Code Section 22.56.055]



**Program C-BIO-4.a Determine the Location of Heritage Trees and Visually Prominent Vegetation.** Develop a process for defining heritage trees and vegetation that is visually prominent or part of a significant view or viewshed, and for mapping areas in the Coastal Zone that contain such vegetation.

(PC app. 1/23/12)

[New Program, not in Unit I or II]

**Program C-BIO-4.b Integrated Planning for Fire Risk, Habitat Protection, and Forest Health.** Develop a Coastal Permit process that protects coastal resources and allows for expedited review



of projects related to the management or removal of major vegetation to minimize risks to life and property or to promote the health and survival of surrounding vegetation native to the locale.

(PC app. 1/23/12)

*[New Program, not in Unit I or II]*

**C-BIO-5 Ecological Restoration.** Encourage the restoration and enhancement of degraded ESHAs and the creation of new ESHAs, and streamline regulatory processes whenever possible to facilitate the successful completion of restoration projects.

(PC app. 12/1/11, 6/28/10)

*[New policy, not in Unit I or II]*

**Program C-BIO-5.a Determine Locations of ESHAs.** Continue to update the process for determining whether projects are within or adjacent to ESHAs. The process shall continue to be based on the best available scientific and geographic information and a level of review commensurate with the nature and scope of the project and the potential existence of an ESHA.

(PC app. 12/1/11, 6/28/10)

*[New program, not in Unit I or II]*

**Program C-BIO-5.b ~~Allowed Development in an ESHA~~ “Safe Harbor” for Expansion of ESHA.** Consider a future work item to encourage the expansion of ESHAs by establishing policies, procedures and criteria that would allow such enhancements and protect sensitive resources while maintaining affected properties to remain subject to pre-existing buffers. The size of any buffer designated as a result of this program would not be a precedent for the size of any buffer on any other development site. This program would lead to policies and implementing measures that would be subject to review and certification as an amendment to the LCP.

[BOS app. 10/2/2012, 11/13/2012]

(PC app. 1/23/12, 12/1/11, 6/28/10)

*[New program, not in Unit I or II]*

**C-BIO-6 Invasive Plants.** Where feasible, require the removal of non-native, invasive plant species such as pampas grass, brooms, iceplant, thistles and other invasive plant species on the list maintained by the California Invasive Plant Council in the areas of development and revegetate those areas with native plants as specified in Coastal Permit approvals. Ensure that required landscaping avoids use of non-native, invasive trees and plants in accordance with Policy C-DES-9 Landscaping. This policy does not apply to agricultural crops and pastures.

[BOS app. 10/2/2012]

(PC app. 12/1/11, 1/24/11)

*[Adapted from Unit I Habitat Protection Policy 28, p. 34]*

**C-BIO-7 Coastal Dunes.** Prohibit development in coastal dunes to preserve dune formations, vegetation, and wildlife habitats. Prevent overuse in dune areas by mechanisms such as restricting parking, and directing pedestrian traffic through signage and sand fencing to areas capable of sustaining increased use, and fencing. Prohibit motor vehicles in dune areas except for emergency purposes; prohibit motor vehicles in non-dune beach areas except for emergency and essential maintenance purposes and where previously permitted.

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

(PC app. 2/13/12, 12/1/11, 6/28/10)

*[Adapted from Unit II Natural Resources Policy 5.a, p. 74]*

**C-BIO-8 Stringline Method of Preventing Beach Encroachment.** In a developed area where most lots are developed and where there are relatively few vacant lots, no part of a proposed new ~~structure development~~ (other than a shoreline protective device), including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjacent structures. Enclosed living space in ~~the~~ a new unit or addition shall not extend farther seaward than a second line drawn between the most seaward portions of the enclosed living space of the adjacent structures.

[BOS app. 10/2/2012]

(PC app. 1/23/12, 12/1/11, 6/28/10)

*[New policy, not in Unit I or II]*

**C-BIO-9 Stinson Beach Dune and Beach Areas.** Prohibit development that would adversely impact the natural sand dune formation, ~~and~~ sandy beach habitat ~~and potential prescriptive rights~~ 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, ~~and to protect potential public prescriptive rights over the area.~~ 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 boundaries between public and private beach areas.

Site development of other shorefront lots within the Stinson Beach and Seadrift areas outside of the natural sand dune formations, consistent with LUP Policy C-BIO-7 (Coastal Dunes). Where no dunes are evident, any new development on shorefront lots shall be set back behind the first line of terrestrial vegetation to the maximum extent feasible, in order to minimize the need for protective works, protect sandy beach habitat, and provide a buffer area between private and public use areas to protect both the scenic and visual character of the beach, and the public right of access to the use and enjoyment of dry sand areas.

[BOS app. 11/13/2012, 1/15/2013]

(PC app. 12/1/11, 6/28/10)



*[Adapted from Unit I Natural Dune and Sandy Beach Protection Policies 19 and 20, p. 29]*

**C-BIO-10 Roosting and Nesting Habitat.** Prohibit the alteration or removal of groves of trees that provide colonial nesting and roosting habitat for monarch butterflies or other wildlife, except where ~~they~~ the trees pose a threat to life or property.

[BOS app. 10/2/2012]

(PC app. 12/1/11, 6/28/10)

*[Adapted from Unit I Habitat Protection Policy 22, p. 34]*

**C-BIO-11 Development Adjacent to Roosting and Nesting Habitat.** Development adjacent to wildlife nesting and roosting areas shall be set back a sufficient distance to protect against disruption in nesting and roosting activities and designed to avoid impacts on the habitat area. Time such development activities so that disturbance to nesting and breeding wildlife is minimized. To the extent feasible, use native vegetation for landscaping.

(PC app. 12/1/11, 6/28/10)

*[Adapted from Unit I Habitat Protection Policy 23, p. 34]*

**Program C-BIO-11.a Grassy Uplands Surrounding Bolinas Lagoon.** Collect and evaluate data and studies to determine the habitat values of upland grassland feeding areas around Bolinas Lagoon for shorebirds, and develop effective policies to protect these areas against significant disruption of habitat values. Limited grazing agricultural use of these lands may be permitted.

[BOS app. 10/2/2012]

(PC app. 12/1/11, 1/24/11)

*[Adapted from Unit I Habitat Protection Policy 26, p. 34]*

~~**C-BIO-13 Biological Productivity.**~~ *(Moved to Water Resources as C-WR-18, deleted 12/1/11)*

**C-BIO-14 Wetlands.** Preserve and maintain wetlands in the Coastal Zone as productive wildlife habitats, and water filtering and storage areas, and protect wetlands against significant disruption of habitat values., ~~as appropriate, recreational open space, consistent with the policies in this section.~~ Evaluate land uses in wetlands as follows:

- ~~1. Permit diking, filling, and dredging of wetlands only in conformance with Policy C-BIO-15. Prohibit filling of wetlands for the purposes of residential development.~~
- ~~2. Allow certain resource dependent activities in wetlands including fishing, recreational clamming, hunting, nature study, bird watching and boating.~~
- ~~3. Prohibit grazing or other agricultural uses in a wetland, except in those reclaimed areas presently (prior to the certification of this amended policy on [ DATE ]) used for such activities prior to April 1, 1981, the date on which Marin's LCP was first certified, or in new areas where a Ranch Water Quality Plan has been approved by the California Regional Water Quality Control Board, or where the landowner demonstrates to the CDA's satisfaction that he/she has developed and implemented management measures in partnership with Marin Resource Conservation District, Natural Resource Conservation Service, or comparable agency to prevent adverse impacts to wetland functions and resources.~~

Where there is evidence that a wetland emerged primarily from agricultural activities (e.g., livestock management, tire ruts, row cropping) and does not provide habitat for any species that meet the definition of ESHA, such wetland may be used and maintained for agricultural purposes and shall not be subject to the buffer requirements of C-BIO-19 (Wetland Buffers).

[BOS app. 10/2/2012, 11/13/2012]

(PC app. 2/13/12, 1/23/12, 6/28/10)

*[Adapted from Unit II Natural Resources Policy 4 (a – c), p. 74]*

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

1. New or expanded commercial fishing facilities.
2. Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
3. Incidental public service purposes, including burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
4. Mineral extraction, including sand for restoring beaches, except in ESHAs.

5. Restoration purposes.
6. Nature study, aquaculture, or similar resource-dependent activities.
7. Excluding wetlands, new or expanded boating facilities and the placement of structural pilings for public recreation piers that provide public access and recreational opportunities may be permitted. Only entrance channels, access or connecting walkways for new or expanded boating facilities shall be permitted in wetlands.
8. In the Esteros Americano and de San Antonio, limit any alterations to those for the purposes of ~~nature~~scientific study and restoration.

[BOS app. 11/13/2012]

(PC app. 12/1/11, 1/24/11)

[Adapted from Unit II Diking, Filling and Dredging Policies 1 and 2, p. 136]

~~**C-BIO-16 Acceptable Purposes for Diking, Filling, and Dredging.**~~ (Combined with C-BIO-15 above, 12/1/11)

**C-BIO-17 Conditions and Standards for Diking, Filling, Draining, and Dredging.** Diking, filling, draining or dredging may be permitted for the purposes specified in policy C-BIO-15 above provided that all of the following conditions and standards are met:

1. There is no feasible less environmentally damaging alternative.
2. Mitigation measures have been provided in accordance with Policy C-BIO-21 (Wetland Impact Mitigation) in order to minimize adverse environmental effects.
3. The activities are planned, scheduled, and carried out to avoid significant disruption to marine and wildlife habitats, fish and bird breeding and migrations, and water circulation.
4. The need for both initial and maintenance dredging shall be minimized by careful design and location of facilities with respect to existing water depths, water circulation, siltation patterns, and by efforts to reduce controllable sedimentation.
5. In estuaries and wetlands, the diking, filling, or dredging shall maintain or enhance the functional capacity of the wetland or estuary.
- ~~6. Dike and fill projects in wetlands shall include mitigation measures specified in Policy C-BIO-21.~~

[BOS app. 10/2/2012]

(PC app. 12/1/11, 6/28/10)

[Adapted from Unit II Diking, Filling and Dredging Policy 3, p. 137]

**C-BIO-18 Spoils Disposal of Dredged Materials.** Require the disposal of dredged sediments to conform to the following standards:

1. The dredged materials ~~spoils~~ disposal site has been approved by all relevant agencies.
2. ~~Spoils~~ Disposal of dredged materials shall be planned and carried out to avoid ~~significant~~ disruption to marine and wildlife habitats and water circulation.
3. ~~Dredged materials~~ spoils—suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.

4. The disposal of dredged materials spoils shall conform to the most recently approved dredging requirements promulgated or adopted by the State or Regional Water Quality Control Board.

[BOS app. 10/2/2012]

(PC app. 12/1/11, 6/28/10)

[Adapted from Unit II Diking, Filling and Dredging Policy 4, p. 137]

**C-BIO-19 Wetland Buffers.** Consistent with Policy C-BIO-3.1 (ESHA Buffers), maintain a buffer area, a minimum of 100 feet in width, in a natural condition along the periphery of all wetlands. A wider An additional buffer may be required based on the results of a site assessment, if such an assessment is determined to be necessary, and the site assessment concludes that a buffer greater than 100 feet in width is necessary to protect wetland resources from the impacts of the proposed development, including construction and post-construction impacts. Coastal Permits shall not authorize No development shall be permitted within the wetland-within these-buffer, areas unless such development the project is otherwise determined to be consistent with policy authorized by C-BIO-2 (ESHA Protection), C-BIO-14 (Wetlands), C-BIO-15 (Diking, Filling, Draining and Dredging, or Policy C-BIO-20 (Wetland Buffer Adjustments) and Exceptions.

[BOS app. 10/2/2012, 11/13/2012]

(PC app. 12/1/11, 6/28/10)

[Adapted from Unit I Lagoon Protection Policy 18, p. 28, and Unit II Natural Resources Policy 4.d, p. 74]

**C-BIO-20 Wetland Buffer Adjustments and Exceptions.**

1. Consider granting adjustments and exceptions to the wetland buffer width standard identified in Policy C-BIO-19 in certain limited circumstances for projects that are implemented in the least environmentally damaging manner, as follows. A Coastal Permit that requires a buffer adjustment may only be considered if it conforms with zoning, and:
  - a. It is proposed on a legal lot of record located entirely within the buffer; or
  - b. It is demonstrated that permitted development cannot be feasibly accommodated entirely outside the required buffer; or
  - c. It is demonstrated that the permitted development outside the buffer would have greater impact on the wetland and the continuance of its habitat than development within the buffer;  
or
  - d. The wetland was constructed out of dry land for the treatment, conveyance or storage of water and does not affect natural wetlands.
2. A buffer adjustment may be granted only if supported by the findings of a site assessment which demonstrate that the adjusted buffer, in combination with incorporated siting, design or other mitigation measures, will prevent impacts that significantly degrade the wetland and will be compatible with the continuance of the wetland ESHA. 1. The County determines that the applicant has demonstrated that a 100-foot buffer is unnecessary to protect the resource because any disruption of the habitat values of the resource is avoided by the project and specific proposed protective measures are incorporated into the project. An adjustment to the wetland buffer may be granted only where:
  - a. There is no feasible less environmentally damaging alternative;
  - b. Measures are provided that will eliminate adverse environmental effects when possible, or when elimination is not possible, will minimize and reduce adverse environmental effects to less than significant levels; and



- e. ~~Any significant disruption of the habitat value of the resource is avoided.~~
- 2. ~~The wetland was artificially created for the treatment and/or storage of wastewater or domestic water.~~
- 3. A Coastal Permit authorizing a buffer adjustment shall require measures that create a net environmental improvement over existing conditions, in addition to what is otherwise required by minimum applicable site development standards. Such measures shall be commensurate with the nature and scope of the project and shall be determined at the site level, supported by the findings of a site assessment or other technical document. Work required in accordance with this Policy shall be completed prior to occupancy. Appropriate measures may include but are not limited to:
  - a. Retrofitting existing improvements or implementing new measures to reduce the rate or volume of stormwater run-off and improve the quality of stormwater run-off (e.g., permeable "hardscape" materials and landscape or site features designed to capture, absorb and filter stormwater);
  - b. Elimination of on-site invasive species ;
  - c. Increasing native vegetation cover (e.g., expand continuous vegetation cover, reduce turf areas, provide native groundcover, shrubs and trees);
  - d. Reduction in water consumption for irrigation (e.g., drought-tolerant landscaping or high efficiency irrigation systems);
  - e. Other measures that reduce overall similar site-related environmental impacts.
- 3. ~~The wetland was created as a flood control facility as an element of a stormwater control plan, or as a requirement of a National Pollutant Discharge Elimination System (NPDES) Permit, and the Coastal Permit for the development incorporated an ongoing repair and maintenance plan to assure the continuing effectiveness of the facility or stormwater control plan.~~
- 4. The buffer shall not be adjusted to a distance of less than 50 feet in width from the edge of the wetland. The project conforms to one of the purposes identified in policy C-BIO-14 or C-BIO-16.

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

(PC app. 12/1/11, 6/28/10)

[New policy, not in Unit I or II]

**C-BIO-21 Wetland Impact Mitigation.** Where any dike and fill development is permitted in wetlands in conformity with this section, require mitigation measures to include, at a minimum, either acquisition of required areas of equal or greater biological productivity or opening up equivalent areas to tidal action; provided, however, that if no appropriate restoration site is available, an in-lieu fee sufficient to provide an area of equivalent productive value or surface areas shall be dedicated to an appropriate public agency, or such replacement site shall be purchased before the dike or fill development may proceed. A minimum ratio of 2:1 in area is required for on-site mitigation, a minimum ratio of 3:1 is required for off-site mitigation, and a minimum ratio of 4:1 is required for an in-lieu fee. Mitigations shall meet the following criteria:

- 1. No net losses shall occur in wetland acreage, functions, or values. This should include both direct impacts on wetlands and essential buffers, and consideration of potential indirect effects of development due to changes in available surface water and nonpoint water quality degradation. Detailed review of the adequacy of a proposed mitigation plan shall be performed as part of any required environmental review of the proposed development project to allow for a thorough evaluation of the anticipated loss, as well as the replacement acreage, functions, and values.

2. Restoration of wetlands is preferred to creation of new replacement wetlands, due to the greater likelihood of success.
3. Mitigation shall be implemented prior to and/or concurrently with the project activity causing the potential adverse impact to minimize any short-term loss and modification to wetlands.
4. An area of adjacent upland habitat shall be protected to provide an adequate buffer for wetland functions and values. Development shall be set back the minimum distance specified in Policy C-BIO-19 (Wetland Buffers) to create this buffer, unless an adjustment is allowed and appropriate mitigation is provided where necessary, pursuant to Policy C-BIO-20 (Wetland Buffer Adjustments).
5. Mitigation sites shall be permanently protected and managed for open space and wildlife habitat purposes.
6. Mitigation projects must to the extent feasible minimize the need for ongoing maintenance and operational manipulation (e.g., dredging, artificial water-level controls, etc.) to ensure long-term success. Self-sustaining projects with minimal maintenance requirements are encouraged.
7. All plans to mitigate or minimize adverse impacts to wetland environments shall include provisions to monitor the success of the restoration project. The measures taken to avoid adverse impacts may be modified if the original plans prove unsuccessful. Performance bonds shall be required for all mitigation plans involving habitat creation or enhancement, including the cost of monitoring for five years post-completion.
8. Mitigation must be commensurate with adverse impacts of the wetland alteration and consist of providing similar values and greater wetland acreage than those of the wetland area adversely affected. All restored or created wetlands shall be provided at the minimum replacement ratio specified in this Policy (C-BIO-21) and shall have the same or increased habitat values as the wetland proposed to be destroyed.

Such mitigation measures shall not be required for temporary or short-term fill or diking; provided that a bond or other evidence of financial responsibility is provided to assure that restoration will be accomplished in the shortest period of time not to exceed 12 months.

[BOS app. 10/2/2012]

(PC app. 12/1/11, 6/28/10)

*[New policy, not in Unit I or II]*

**C-BIO-22 Tomales Bay Shoreline.** As part of the application for a coastal permit on any parcel adjacent to Tomales Bay, except where there is no evidence of wetlands, require the applicant to submit supplemental biological information prepared by a qualified biologist at a scale sufficient to identify the extent of the existing wetlands, based on Section 30121 of the Coastal Act and the area of the proposed buffer areas.

(PC app. 12/1/11, 6/28/10)

*[Adapted from Unit II Natural Resources Policy 4.e, p. 74]*



**C-BIO-23 Marine Resources.** Maintain, enhance, and, where feasible, restore marine resources. Provide special protection to areas and species of special biological or economic significance. Carry out uses of the marine environment in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

(PC app. 12/1/11, 6/28/10)

*[New policy, not in Unit I or II]*

**C-BIO-24 Coastal Streams and Riparian Vegetation.**

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

~~Substantial alterations shall include channelizations, dams, or comparable projects which significantly disrupt the habitat value of a particular river or stream.~~ Before any such activities substantial alterations that would significantly disrupt the habitat value of a stream are permitted, minimum flows necessary to maintain fish habitat and water quality, and to protect downstream resources (e.g. riparian vegetation, groundwater recharge areas, receiving waters, spawning habitats, etc.) and downstream users shall be determined by the Department of Fish and Game Wildlife and the Division of Water Rights of the State Water Resources Control Board. Prohibit new impoundments which, individually or cumulatively, would decrease streamflows below the minimum.

*[BOS app. 10/2/2012, 11/13/2012]*

3. Access and Utility Crossings. Access and utility crossings shall be accomplished by clear span bridging, unless other methods are determined to be less disruptive to the stream and/or riparian ESHA. Wherever possible, shared bridges or other crossings shall be used to provide access and utilities to groups of lots covered by this policy. Bridge abutments shall be located outside stream channels and designed to minimize disturbance of riparian vegetation.

*[BOS app. 11/13/2012]*

23. Conditions. Minimize the alteration of streams allowed for the purposes listed in (1) and (2) above in order to protect streamwater quality and the volume and rate of streamflow. Require all such developments to incorporate the best mitigation measures feasible, including erosion and runoff control measures, and re-vegetation of disturbed areas with native species. Minimize the disturbance of riparian vegetation and require revegetation wherever possible.

*[BOS app. 11/13/2012]*

3. ~~Stream Buffers.~~ MOVE BUFFER REQUIREMENT TO SEPARATE POLICY:

**C-BIO-“TBD” Coastal Stream and Riparian Vegetation Buffers**

Consistent with Policy C-BIO-3.1 (ESHA Buffers), establish buffers to protect streams from the impacts of adjacent uses including development impacts from construction and post-construction



~~activities, and maintain such buffers in a natural condition for each stream in the Coastal Zone. The stream buffer shall include be the wider of the following on both sides of the stream: (a) the area 50 feet landward from the outer edge of the riparian vegetation, or (b) the area. In no case shall the stream buffer be less than 100 feet landward feet in width, on either side of the stream, as measured from the top of the stream banks. No development shall be permitted in the stream or riparian vegetation buffer unless such development is authorized by C-BIO-2 (ESHA Protection), C-BIO-24 (Coastal Streams and Riparian Vegetation) or C-BIO-25 (Stream and Riparian Buffer Adjustments).~~

[BOS app. 10/2/2012, 11/13/2012]

- ~~4. Development in Stream Buffers. Prohibit development within stream buffers unless the project is otherwise designed to be consistent with policy C BIO 25 Stream Buffer Adjustments and Exceptions.~~

[BOS app. 10/2/2012, 11/13/2012]

(PC app. 12/1/11, 1/24/11)

*[Adapted from Unit I Stream Protection Policies 1 – 3, p. 19, and Unit II Natural Resources Policy 3 (a – d), p. 72]*

### **C-BIO-25 Stream Buffer Adjustments and Exceptions.**

1. Consider granting adjustments and exceptions to the coastal stream buffer standards in policy C-BIO-24 in certain limited circumstances for projects that are undertaken in the least environmentally damaging manner. An adjustment or exception may be granted in any of the following circumstances: A Coastal Permit that requires a buffer adjustment may only be considered if it conforms with zoning, and:
  - a. It is proposed on a legal lot of record located entirely within the buffer; or
  - b. It is demonstrated that permitted development cannot be feasibly accommodated entirely outside the required buffer; or
  - c. It is demonstrated that the permitted development outside the buffer would have greater impact on the stream or riparian ESHA and the continuance of its habitat than development within the buffer.
2. A buffer adjustment may be granted only if supported by the findings of a site assessment which demonstrate that the adjusted buffer, in combination with incorporated siting, design or other mitigation measures, will prevent impacts that significantly degrade the stream or riparian vegetation, and will be compatible with the continuance of the stream/riparian ESHA. ~~1. The County determines that the applicant has demonstrated that a 100/50-foot buffer (see Policy C-BIO-24(3)) is unnecessary to protect the resource because any disruption of the habitat value of the resource is avoided by the project and specific proposed protective measures are incorporated into the project. An adjustment to the stream buffer may be granted only where:~~
  - a. There is no feasible less environmentally damaging alternative;
  - b. Measures are provided that will eliminate adverse environmental effects when possible, or, when elimination is not possible, will minimize and reduce adverse environmental effects to less than significant levels; and
  - c. Any significant disruption of the habitat values of the resource is avoided.
2. Where a finding based upon factual evidence is made that development outside a stream buffer area either is infeasible or would be more environmentally damaging to the riparian habitat than development within the riparian protection or stream buffer area, limited development of principal permitted uses may occur within such area subject to appropriate mitigation measures to protect water quality, riparian vegetation, and the rate and volume of stream flows.

3. A Coastal Permit authorizing a buffer adjustment shall require measures that create a net environmental improvement over existing conditions, in addition to what is otherwise required by minimum applicable site development standards. Such measures shall be commensurate with the nature and scope of the project and shall be determined at the site level, supported by the findings of a site assessment or other technical document. Work required in accordance with this Policy shall be completed prior to occupancy. Appropriate measures may include but are not limited to:
  - a. Retrofitting existing improvements or implementing new measures to reduce the rate or volume of stormwater run-off and improve the quality of stormwater run-off (e.g., permeable “hardscape” materials and landscape or site features designed to capture, absorb and filter stormwater);
  - b. Elimination of on-site invasive species;
  - c. Increasing native vegetation cover (e.g., expand continuous riparian vegetation cover, reduce turf areas, provide native groundcover, shrubs and trees);
  - d. Improvement of streambank or in-stream conditions (e.g., replace bank armoring, slope back streambanks, create inset floodplains, install large woody debris structures), in order to restore habitat;
  - e. Reduction in water consumption for irrigation (e.g., drought-tolerant landscaping or high efficiency irrigation systems);
  - f. Other measures that reduce overall similar site-related environmental impacts.

~~3. Exceptions to the stream buffer policy may be granted for access and utility crossings when it has been demonstrated that developing alternative routes that provide a stream buffer would be infeasible or more environmentally damaging. Wherever possible, shared bridges or other crossings shall be used to provide access and utilities to groups of lots covered by this policy. Access and utility crossings shall be accomplished by bridging, unless other methods are determined to be less damaging, and bridge columns shall be located outside stream channels where feasible.~~

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

~~4. When a legal lot of record is located substantially within a stream buffer area, development of principal permitted uses may be permitted but the Coastal Permit shall identify and implement the mitigation measures necessary to protect water quality, riparian vegetation and the rate and volume of stream flows. Only those projects that entail the least environmentally damaging alternative that is feasible may be approved. The Coastal Permit shall also address the impacts of erosion and runoff, and provide for restoration of disturbed areas by replacement landscaping with plant species naturally found on the site.~~

5. ~~The project conforms to the purposes and standards identified in policy C-BIO-24(1)~~

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

(PC app. 2/13/12, 12/1/11, 6/28/10)

[Adapted from Unit I Stream Protection Policy 4, p. 19]

**C-BIO-26 Diversions Outside the Coastal Zone.** Require that the impacts from diversion projects, especially on the two major tributaries to Tomales Bay, Walker and Lagunitas Creeks, be fully studied through the CEQA process before they are permitted to proceed and in all cases, require mitigation and enhancement measures to ensure that coastal resources influenced by freshwater inflows are not significantly damaged.

(PC app. 12/1/11, 1/24/11)

*[Adapted from Unit II Natural Resources Policy 3.e, p. 73]*

**C-BIO-27 Federal Projects.** Federal projects which require the modification or alteration of natural resources shall be evaluated by the Coastal Commission through the consistency review process.

(PC app. 12/1/11, 6/28/10)

*[Adapted from Unit II Federal Parklands Policy 3, p. 61]*

**C-BIO-28 California Parks and Recreation.** Support and encourage the environmental conservation, land and easement acquisition, and habitat restoration efforts of the California Department of Parks and Recreation.

(PC app. 12/1/11, 6/28/10)

*[New policy, not in Unit I or II]*

**C-BIO-29 Marin County Parks and Open Space.** Support and encourage the environmental conservation, land and easement acquisition, and habitat restoration efforts of the Marin County Parks Department of Parks and Open Space. In particular, conservation activities related to beach areas, lagoons, wetlands, streams, existing and potential boat launching sites, recreational areas, and Tomales Bay and its shoreline the following areas are considered a high priority in the Coastal Zone:

- ~~Upton Beach in Stinson Beach~~
- ~~Bolinas Lagoon in Bolinas~~
- ~~Agate Beach in Bolinas~~
- ~~Bolinas Park in Bolinas~~
- ~~Chicken Ranch Beach in Inverness~~
- ~~Miller Park Boat Launch in Marshall~~
- ~~White House Pool in Inverness Park~~
- ~~Lawson's Landing area in Dillon Beach~~
- ~~Tomales Bay~~

*[BOS app. 10/2/2012]*

(PC app. 12/1/11, 6/28/10)

*[New policy, not in Unit I or II]*

## Environmental Hazards (EH)

...

### **C-EH-12 Floor Elevations Requirements for Existing Buildings in Flood Hazard Zones.**

Within flood hazard zones as mapped by the Federal Emergency Management Agency, allow existing buildings that are encroaching into a required property line yard setback to be raised ~~to meet the minimum floor~~ above the base flood elevation without the need for a variance to setback requirements, as long as the finished floor is not more than 18 inches above the base flood elevation and the extent of the encroachment is not expanded ~~building's internal floor area~~.

[BOS app. 12/11/2012]

(PC app. 12/1/11, 1/25/10)

[New policy, not in Unit I or II]

...

**C-EH-25 Vegetation Management in Environmentally Sensitive Habitat Area.** Minimize risks to life and property in ESHAs from uncontrolled fire and disease by allowing for the management or removal of major vegetation. Site and design new development to minimize the need for initial and future fire safety clearance or other ongoing maintenance activities that would significantly impact ESHAs or ESHA buffers.

(see also C-BIO-3, C-BIO-19 and C-BIO-24 (ESHA, Wetland, Stream Buffers), and C-DES-11 (Minimization of Fuel Modification)).

[BOS app. 1/15/2013]

(PC app. 1/23/12)

[New policy, not in Unit I or II]

## Community Design (DES)

...

**C-DES-11 Minimization of Fuel Modification.** Site and design new development to minimize required initial and future fuel modification and brushing in general, and in particular, within ESHAs and ESHA buffers, to the maximum extent feasible, in order to minimize habitat disturbance or destruction, removal or modification of natural vegetation, and irrigation of natural areas, while providing for fire safety.

*(see also Policies C-BIO-3, C-BIO-19 and C-BIO-24 (ESHA, Wetland, Stream Buffers), C-BIO-4 (Protect Major Vegetation) and C-EH-25 (Vegetation Management in Environmentally Sensitive Habitat Areas)).*

[BOS app. 1/15/2013]

(PC app. 9/19/11, 7/29/10)

*[Adapted from Malibu LCP Policy 3.59]*

## Community Specific Policies

...

**C-BOL-1 Community Character of Bolinas.** Maintain the existing character of ~~small-scale~~ residential, small-scale commercial and visitor-serving, and agricultural uses in Bolinas.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 7/29/10)

*[Adapted from the Bolinas Community Plan, Tourist Accommodations Policy 1, p. 12]*

...

**C-OL-1 Community Character of Olema.** Maintain Olema's existing mix of residential, small-scale commercial and visitor-serving, and open space land uses and small-scale, historic community character. Minimize impacts of future development in the hillside area of Olema with the following design standards:

1. Cluster structures on more level areas away from steep road cuts on Highway One and off upper grassy slopes, which shall be maintained open to protect their visual character.
2. Incorporate and reflect the historic character of Olema and existing recreational uses in project design. The height of structures shall be in keeping with the character and scale of the surrounding community to minimize visual impacts on adjacent federal parklands, Highway One, and Sir Francis Drake Boulevard.
3. Provide pedestrian paths as appropriate to nearby federal park activity areas.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 7/29/10)

*[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 3.b(5), p. 45]*

...

**C-PRS-1 Community Character of Point Reyes Station.** Maintain the existing mix of residential and small-scale commercial and visitor-serving development and small-scale, historic community character in Point Reyes Station.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 7/29/10)

*[New policy, not in Unit I or II]*

...

**C-INV-1 Community Character of Inverness.** Maintain the existing character of residential and small-scale commercial and visitor-serving development in the Inverness Ridge communities.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 7/29/10)

*[New policy, not in Unit I or II]*

...

**C-ES-1 Community Character of the East Shore of Tomales Bay.** Maintain the existing character of low-density, residential, agriculture, mariculture, visitor-serving, and fishing or boating-related uses. Allow expansion or modification of development for visitor-serving or commercial development on

previously developed lots along the east shore of Tomales Bay, provided that such expanded uses are compatible with the small scale and character of existing development along the Bay....

[BOS app. 12/11/2012]

(PC app. 7/29/10)

*[Adapted from Unit II New Development and Land Use Policy 8.c(4)(c)(2), pp. 212-214]*

...

**C-TOM-1 Community Character of Tomales.** Maintain the existing character of residential and small-scale commercial and visitor-serving development in the community of Tomales. No expansion of commercial zoning is recommended since there is adequate undeveloped land zoned for visitor-serving and commercial development for anticipated future needs. Encourage development of overnight accommodations such as a motel, cottages, and a hostel. New development shall reflect the historic character of the town's architecture and shall be set back from the creek which flows through commercially zoned areas.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 1/24/11)

*[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 3.f, p. 51]*

...

**C-DB-1 Community Character of Dillon Beach.** Maintain the existing character of residential and small-scale commercial and visitor-serving development in Dillon Beach and Oceana Marin. Dillon Beach Resort, including all properties zoned C-RCR and C-RMPC between Dillon Beach Road and Dillon Creek, would be an appropriate site for new development of a modest scale, including a small motel, cafe, delicatessen, or restaurant, and day-use facilities. Due to its proximity to the shoreline, the former Pacific Marine Station is an especially suitable area for facilities where many people can enjoy its prime location. The site offers opportunities, for example, for community services, a conference center, and youth hostel. Limited residential development would be appropriate at the Dillon Beach Resort, provided it is developed as a secondary use in conjunction with visitor-serving uses. All development shall demonstrate adequate water supply and sewage disposal, and shall be sited out of sand dunes and other environmentally-sensitive areas. Building heights shall be limited to that which is compatible with the scale and character of the area. Existing C-RCR and C-RMPC zoning shall be maintained. Maintain existing C-RCR and C-APZ-60 zoning at Lawson's Landing.

[BOS app. 12/11/2012]

(PC app. 11/7/11, 7/29/10)

*[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 3.g(1) & (2), pp. 51 – 52]*

## Parks, Recreation and Visitor-Serving Uses (PK)

...

**C-PK-11 State Parks.** The State Department of Parks and Recreation has numerous holdings in the Coastal Zone, several of which have not been developed. Collectively, these holdings form Tomales Bay State Park and limited portions of Mount Tamalpais State Park. The Department has prepared a general Plan for both Tomales Bay State Park, which includes most of the state park lands in Marin County's Coastal Zone, as well as Mount Tamalpais State Park. Development within the state parks should be consistent with their adopted General Plans as described below.

**Mount Tamalpais State Park** The development of additional recreational and visitor services on those portions of the Mount Tamalpais State park within the coastal zone, including hiking trails, equestrian trails, a "primitive" hostel at the Steep Ravine Cabins and improved parking and support facilities at Red Rock are consistent with the LCP policies. Such facilities shall be similar in design, size and/or location as those proposed by the Mount Tamalpais State Park Plan. Consistent with the protection of significant resources, additional trail development to improve access to public tidelands is encouraged.

**Tomales Bay State Park.** The Tomales Bay State Park General Plan states that it "aims to preserve what works well now in the park and only recommends changes to park management, activities, and recreational and administrative facilities that can harmonize with the area's sensitive values and support valuable visitor experiences of Tomales Bay and its surrounding landscape." Support development at Tomales Bay State Park consistent with the adopted General Plan:

1. Focus and anchor east shore recreation at Marconi Cove and west shore recreation at Heart's Desire area.
2. Manage the greater part of park areas for their habitat, watershed, and aesthetic values and for low-impact and low-density recreation opportunities such as trail use, nature observation, and picnicking.
3. Enhance trail connections with Point Reyes National Seashore in the Heart's Desire and Inverness areas.
4. Improve recreational opportunities along the Highway One corridor where recent acquisitions present new opportunities.
5. Formalize small-scale camping opportunities in previously developed areas.
6. Provide watercraft and sailboard launching opportunities at Marconi Cove and provide hiking and mountain biking recreational opportunities at the proposed trail in the Millerton Uplands.
7. Use sustainable design in siting, construction, and maintenance of park facilities. Furthermore, the following guidelines shall be applied as standards for coastal project permit review for proposed development in the park:

*(Remainder of policy not shown)*

[BOS app. 12/11/2012]

(PC app. 11/7/11, 9/19/11, 2/8/10)

[Adapted from Unit II Recreation and Visitor-Serving Facilities Policy 2.b, p. 42]



## Public Coastal Access (PA)

...

**C-PA-6 Acquisition and Location of New Public Coastal Accessways through Suitable Means.** Acquire additional public coastal accessways in order to enhance opportunities to reach public tidelands, to link publicly accessible beaches via lateral trails, and to avoid impacts of overuse of any single area. Acquisition shall be pursued through available means including, public purchase, tax default acquisitions, agreements with nonprofit management entities, voluntary donation, or, when permissible, dedication as a condition of a coastal project permit. When available funds or other acquisition opportunities are limited, accessways listed in the Appendix shall receive first priority. Acquisition and location of accessways shall take into account the need to protect public safety, military security, fragile coastal resources, and agriculture.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 11/23/09)

*[Adapted from Unit I Public Access Policies 9, 11, 12, and 13, pp. 8-9, and Unit II Public Access Policies 3, 4, and 5, pp. 15-22]*

...

**C-PA-11 Privacy of Neighbors.** In determining appropriate management measures for public coastal accessways, including hours of operation, the Marin County Parks department or other managing entity should take into account the need to respect the privacy of neighboring residents.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 11/23/09)

*[Adapted from Unit I Public Access Policy 1, p. 7]*

...

**C-PA-17 Restoration of Public Coastal Access Areas, Where Necessary.** The Marin County Parks department should restore areas under its control that become degraded through public access use, by such means as revegetation, trail improvements, installation of boardwalks, and informational signing, as funds and staffing or volunteer support permit.

[BOS app. 12/11/2012]

(PC app. 9/19/11, 11/23/09)

*[New policy, not in Unit I or II]*

## Transportation (TR)

...

**C-TR-2 Scenic Quality of Highway One.** Ensure that Highway One shall remain a scenic two-lane roadway throughout Marin's Coastal Zone. Maintain the existing narrow, twisty two-lane roadway that successfully complements the rugged, open character unique to the coastal area from the southern boundary of Marin's Coastal Zone northward to the Bolinas Lagoon. Ensure that improvements shall not, either individually or cumulatively, detract from the rural scenic characteristics of the highway throughout the Coastal Zone and shall be limited to improvements necessary for the continued use of the highway: slope stabilization, drainage control, and minor safety improvements such as guardrail placement, signing, etc.; expansion of shoulder paving to accommodate bicycle or pedestrian traffic; creation of slow traffic and vista turn-outs, as a safety and convenience improvement; and other minor improvements necessary to adequately accommodate public transit. Avoid incursions and other adverse impacts in ESHAs and their buffers. These improvements shall limit the site alterations to the minimum amount necessary to carry out the project and minimize environmental impacts.

[BOS app. 12/11/2012]

(PC app. 2/13/12, 9/19/11, 4/27/09)

*[Adapted from Unit I Public Services Policy 13, p. 49, and Unit II Public Services Policy 4.a, p. 191]*

**LCPA Development Code Amendments  
REVISIONS TO PC-APPROVED DRAFT**

**CHAPTER 22.32 – STANDARDS FOR SPECIFIC LAND USES**

**Sections:**

...

**Chapter 22.32 Table of Contents**

**22.32.115 – Determination of Non-Agricultural Uses** (*Dev. Code Amend. p.1*)

...

**22.32.023 – Agricultural Homestays (Coastal)** (*Dev. Code Amend. p.2*)

**(Coastal)** Agricultural Homestays are subject to the requirements of this Section. The intent of these provisions is to ensure that the Homestay is accessory and incidental to, in support of, and compatible with the property's agricultural production.

**A. Permit requirements.** Agricultural Homestays are allowable in the zoning districts and with the permit requirements determined by Article V (Coastal Zones—Permit Requirements and Development Standards).

**B. Land Use Requirements.** An Agricultural Homestay:

1. Shall have no more than five guest rooms and host no more than 15 registered guests,
2. Provides overnight transient accommodations.
3. Shall offer meals only to overnight guests as an incidental, and not as the primary, function of the establishment, ~~and~~
4. Is located on, and is part of, a farm, as defined in Section 52262 of the Food and Agriculture Code, that produces agricultural products as its primary source of income,
5. Shall operate within the same structure as an otherwise permitted farmhouse or intergenerational home,
6. Shall be limited to one per legal lot; and
7. Shall not be allowed if there is already a bed and breakfast on the lot.  
[BOS app. 10/2/2012, 11/13/2012]

- C. Site requirements.** Except for minimum lot size requirements, the proposed site shall conform to all standards of the applicable zoning district.
- D. Appearance.** The exterior appearance of the structure used for the Agricultural Homestay shall maintain a rural character consistent with farm buildings on the property.
- E. Limitation on services provided.** The services provided guests by the Agricultural Homestay shall be limited to the rental of bedrooms and the provision of meals at any time to registered guests. The price of food shall be included in the overnight transient occupancy accommodation. There shall be no separate/additional food preparation facilities for guests. Homestay guests may also participate in agricultural activities at the discretion of the homestay operator.
- F. Business license required.** A current business license shall be obtained/posted, in compliance with Title 5, Chapter 5.54 (Business Licenses) of the County Code.
- G. Occupancy by permanent resident required.** All Agricultural Homestays shall have one household in permanent residence.
- H. Transient Occupancy Tax.** Agricultural Homestays shall be subject to the Transient Occupancy Tax, in compliance with Chapter 3.05 (Uniform Transient Occupancy Tax) of the County Code.
- I. Signs.** Signs shall be limited to one on-site sign not to exceed four square feet in area and shall be installed/maintained in compliance with Chapter 22.28 (Signs).
- J. Fire safety.** The Agricultural Homestay shall meet all of the requirements of the County Fire Department or local Fire Protection District, as applicable.
- K. Parking.** On-site parking shall be provided in compliance with 24.04.330 through .400 (Parking and Loading) of the County Code.
- L. Sewage disposal.** Any on-site sewage disposal shall be provided in compliance with Title 18 (Sewers) of the County Code.

...

#### **22.32.024 – Agricultural Intergenerational Homes (Coastal)** (*Dev. Code Amend. p.3*)

**(Coastal)** Intergenerational Housing in the Coastal Zone is subject to the requirements of this Section. The intent of these provisions is to allow intergenerational housing units in order to support agricultural operations, ensure the viability of agriculture in the Coastal Zone and facilitate multi-generational family farm operation and succession. Intergenerational housing is considered a component of the agricultural activities of the property.

- A. Permitted use, zoning districts.** Up to two intergenerational homes in addition to the Farmhouse may be permitted in the C-APZ for members of the farm operator's or owner's

immediate family. An equivalent density of 60 acres per unit shall be required for each home, including any existing homes (i.e., a minimum of 120 acres for a Farmhouse plus one intergenerational home and a minimum of 180 acres for a Farmhouse plus two intergenerational homes).

[BOS app. 10/2/2012]

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

[BOS app. 1/15/2013]

- C. Permit Requirements.** Agricultural intergenerational homes are allowable in the zoning districts and with the permit requirements determined by Article V (Coastal Zones—Permit Requirements and Development Standards).

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

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

- F. Restrictive Covenant.** Intergenerational housing requires the preparation and ~~dedication~~ recordation of a restrictive covenant running with the land for the benefit of the County ensuring that intergenerational housing will continuously be occupied by the owner or operator's immediate family. The covenant must include, at a minimum, the following:

[BOS app. 11/13/2012]

1. A detailed description of the intergenerational home or homes.
2. Assurance that any change in use will be in compliance with 22.32.024.B and in conformance with applicable zoning, building and other ordinances and noting that all appropriate permits must be issued and completed prior to any change in use.

[BOS app. 1/15/2013]

3. Assurance that the intergenerational housing will not be subdivided or sold separately from the primary agricultural legal lot.

[BOS app., 10/2/2012]

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

...

### **22.32.026 – Agricultural Processing Uses** (*Dev. Code Amend. p.4*)

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

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

**(Coastal)** In Coastal agricultural Zoning Districts C-APZ and ~~C-ARP~~ agricultural processing is allowed as a Principal Permitted Use provided it meets the following standards:

[BOS app. 10/2/2012]

#### **A. Limitations on use:**

1. Processing of agricultural product is a Principal Permitted Use only if conducted in a facility not exceeding 5,000 square feet that is located at least 300 feet from any street or separate-ownership property line (and not within an Environmentally Sensitive Habitat Area [ESHA]) or its buffer.
2. To qualify as a Principal Permitted Use, the agricultural product that is processed must be grown principally in Marin County or at a site outside Marin County that is operated by the operator of the processing facility (“principally” shall mean at least 75% by dollar volume of the processor’s sales of the processed product). The operator of the processing facility must be directly involved in the agricultural production on the property on which the production facility is located.
3. “Agricultural product that is processed” does not apply to additives or ingredients that are incidental to the processing.
4. A Conditional Use Permit shall be required if the processing facility is open routinely to public visitation or if public tours are conducted of the processing facility more than 24 times per year.
5. Under these criteria, up to 25% by dollar sales volume of the agricultural product that is processed could be grown outside Marin County (on sites not operated by the operator of the processing facility).
6. ~~Any agricultural processing in a C-ARP zoning district is a Conditional Use requiring a Use Permit.~~

[BOS app. 10/2/2012]

...

### **22.32.027 – Agricultural Retail Sales and Facilities (Coastal)** (*Dev. Code Amend. p.5*)

**(Coastal)** The standards of this Section shall apply to the sale of agricultural products. “Sale of Agricultural Products” is defined in Section 22.130.030.

For Agricultural and Resource-Related Districts outside the Coastal Zone, see section 22.08.040.F.

**(Coastal)** In Coastal agricultural Zoning Districts C-APZ and C-ARP, retail sales are allowed as a Principal Permitted Use provided they meet the following standards:

#### **A. Limitations on use:**

1. Retail sales must be conducted:
  - (a) Without a structure (e.g. using a card table, umbrella, tailgate, etc.); or

(b) From a structure or part of a structure that does not exceed 500 square feet in size and does not exceed 15 feet in height.

2. Items sold must be principally unprocessed produce grown in Marin County or at a site outside Marin County that is operated by the ~~operator~~ owner or lessee of the sales facility. For purposes of this section, “principally” shall mean at least 75% by dollar volume of sales. The operator of the sales facility must be directly involved in the agricultural production on the property on which the sales facility is located.

[BOS app. 10/2/2012]

3. Sales of consigned produce grown in Marin County (or grown at a site outside of Marin County that is operated by a consignor whose principal agricultural activities are within Marin County) shall be allowed as part of the principal permitted use, provided that all produce being sold satisfies the criteria for the principal permitted use findings.
4. A Use Permit is required for picnic or recreational facilities. A Use Permit is also required for on-site consumption other than informal tastings at no charge of product offered for sale.
5. Sufficient parking is provided.

...

#### **22.32.062 – Educational Tours (Coastal)** (*Dev. Code Amend. p.8*)

**(Coastal) Limitations on use.** As defined in Section 22.130.030, educational tours are interactive excursions for groups and organizations for the purpose of informing them of the unique aspects of a property, including agricultural operations and environmental resources. In the C-APZ, ~~and C-ARP,~~ and C-OA zoning districts, educational tours operated by non-profit organizations or the owner/operator of the agricultural operation are a principal permitted use (except as provided in Section 22.32.026.A.4); those operated for commercial profit require a Use Permit.

[BOS app. 10/2/2012]

...

#### **22.32.190 – Wind Energy Conversion Systems (WECS) (Coastal)** (*Dev. Code Amend. p.10*)

This Section establishes permit requirements for coastal planned district and coastal conventional district zones 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 electricity from non-renewable sources.

- A. **Permit requirements.** Small Roof-Mounted Wind Energy Conversion Systems (WECS) are allowed in all coastal zoning districts, subject to the following general requirements. Small and Medium Freestanding WECS are allowed only in coastal agricultural zoning districts (C-ARP, C-APZ), subject to the following general requirements. Large WECS are prohibited in all coastal zoning districts.

...

5. **Wind Testing Facilities.** For the purpose of Section 22.32.190, wind testing facilities are those facilities or structures which have been temporarily installed to measure wind speed and directions and to collect other data relevant to siting WECS. Wind testing facilities (for example, Meteorological Towers) may be allowed as a Permitted Use on a temporary basis, if necessary to perform a wind measurement study. Installations of temporary (up to one year) wind testing facilities shall be considered pursuant to Section 22.32.200 through the Coastal Permit process pursuant to Chapters 22.68 and 22.70. Any proposed wind testing facilities shall comply with the development standards and requirements of WECS (coastal) contained in this Section.  
[BOS app. 12/11/2012]

...

#### H. Post approval requirements.

...

1. Post-Construction Avian and Bat Monitoring Program. A post-construction avian and bat monitoring program shall be required of the owner during periods of nesting, roosting, foraging, and migration, for Small Freestanding WECS and Medium WECS (coastal). The application of this requirement shall be in accordance with criteria established by a governmental agency, such as the U.S. Fish and Wildlife Service (USFWS) or the California Department of Fish and Game (CDFG), or by PRBO Conservation Science.  
[BOS app. 12/11/2012]

...

#### **~~22.32.200 — Wind Testing Facilities (Coastal)~~**

~~Facilities or structures (for example: Meteorological Towers) may be allowed as a Conditional Use on a temporary basis, if necessary to perform a wind measurement study. Installations of wind testing facilities shall be considered through the Temporary Use permit process pursuant to Chapter 22.50 (Temporary Use permits) as well as the Coastal Permit process pursuant to Chapters 22.68 and 22.70. Any proposed wind testing facilities shall comply with the development standards and requirements of WECS (coastal) contained in Section 22.32.190.~~

[BOS app. 12/11/2012]



## Chapter 22.62 – Coastal Zoning Districts and Allowable Land Uses

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### 22.62.060 – Coastal Agricultural and Resource-Related Districts (*Dev. Code Amend. p.25*)

...

**B. Purposes of zoning districts.** The purposes of the individual zoning districts are as follows.

- 1. C-APZ (Coastal, Agricultural Production Zone) District.** The C-APZ zoning district is intended to preserve privately owned agricultural lands that are suitable for land-intensive or land-extensive agricultural production. (Policy C-AG-2)

The principal permitted use of lands in the C-APZ district is ~~intended to be~~ agricultural, including activities that are accessory and incidental to, in support of, and compatible with agricultural production. These activities include use of land for the breeding, raising, pasturing, and grazing of livestock; the production of food and fiber; the breeding and raising of bees, fish, poultry, and other fowl; the planting, raising, harvesting and producing of agriculture, aquaculture, horticulture, ~~viticulture~~, viticulture, vermiculture, forestry crops, and plant nurseries; substantially similar uses of an equivalent nature and intensity; accessory structures or uses appurtenant and necessary to the operation of agricultural uses, including one farmhouse per legal lot, ~~an~~ one intergenerational home, agricultural worker housing, limited agricultural product sales and processing, educational tours, agricultural homestay facilities with three or fewer guest rooms, barns, fences, stables, corrals, coops and pens, and utility facilities (not including wind energy conversion systems and wind testing facilities). (Policy C-AG-2)

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

~~Viticulture is a permitted use.~~ Conditional uses in the C-APZ zone include additional agricultural uses and non-agricultural uses including land division and residential development potentially up to the zoning density, consistent with Policies C-AG-7, 8 and 9. Conditional residential development shall not exceed a maximum density of 1 residential unit per 60 acres. Densities specified in the zoning are maximums that may not be achieved when the standards of the Agriculture policies, and, as applicable, other LCP policies are applied. (Policy C-AG-1, 2)

[BOS app. 10/2/2012, 1/15/2013]

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

...

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

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
	C-APZ Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	
AGRICULTURE, MARICULTURE				
Agricultural accessory activities	PP, E	PP, E	PP, E	22.32.021
Agricultural accessory structures	PP, E	PP, E	PP, E	22.32.022
Agricultural homestays, 3 or fewer guest rooms	PP(10)	PP(10)	—	22.32.023 22.32.115
Agricultural homestays, 4 or 5 guest rooms	U(10)	U(10)	—	22.32.023 22.32.115
Agricultural Intergenerational Home (first)	PP	--	—	22.32.024
Agricultural Intergenerational Home (second)	U	--	—	22.32.024
Farmhouse	PP (8)	PP	—	22. 32.025
Agricultural processing uses (≤5,000 sqft.)	PP	U	—	22.32.026
Agricultural processing uses (>5,000 sqft.)	U	U	—	22.32.026
Agricultural production, <del>except viticulture</del>	PP, E	PP, E	P	22.32.030
Agricultural product sales (≤500 sqft.)	PP	PP	U	22.32.027
Agricultural product sales (>500 sqft.)	U	U	U	22.32.027
Agricultural worker housing	PP	PP	U	22.32.028
Commercial gardening	PP, E	P	P	
Dairy operations	PP, E	P	P(4)	22.32.030
Educational tours (non-profit or owner/operator)	PP	PP	PP	22.32.062 22.32.115
Fish hatcheries and game reserves	U	P	P	
Livestock operations, grazing	PP, E(5)	P(5)	P	22.32.030
Livestock operations, large animals	PP, E(5)	P(5)	—	22.32.030
Livestock operations, sales/feed lots, stockyards	P(5)	P(5)	—	22.32.030
Livestock operations, small animals	PP, E(5)	P(5)	—	22.32.030
Mariculture/aquaculture	PP	PP	—	22.32.105
Plant nurseries	PP	PP		
Raising of other food and fiber producing animals not listed under “agricultural production”	U	U	—	22.32.030
<del>Viticulture</del>	<del>P</del>	<del>P</del>		

[BOS app. 1/15/2013]

**TABLE 5-1-d - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL AGRICULTURAL & RESOURCE-RELATED DISTRICTS** (Full table and notes not shown)

*(Dev. Code Amend. p.33)*

LAND USE (1):	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
	C-APZ Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	
RESOURCE, OPEN SPACE USES				
Wind energy conversion systems (WECS), Small Roof-mounted	PP	PP	PP	22.32.190
Wind energy conversion systems (WECS), Small Freestanding, and Medium (coastal)	P	P	—	22.32.190
Wind energy conversion systems (WECS), Large (coastal)	—	—	—	22.32.190
<u>Wind Testing Facility (coastal)</u>	<u>P</u>	<u>P</u>	—	<u>22.32.190</u>
<del>Water wells or septic systems to serve development on adjoining land</del>	<u>U</u>	<u>U</u>	<u>U</u>	
Solar energy systems (coastal), roof-mounted	PP	PP	PP	22.32.161 22.42.055(2)
Solar energy systems (coastal), free-standing	P	P	P	22.32.161
RETAIL TRADE USES				
Child day-care centers	U	U	—	22.32.050
Child day-care – Large family day-care homes	<u>P</u> U	<u>P</u> U	—	22.32.050
Child day-care – Small family day-care homes	P	P	—	22.32.050

[BOS app. 12/11/2012]

**TABLE 5-3-e - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL  
COMMERCIAL/MIXED USE DISTRICTS** (Full table and notes not shown)  
(Dev. Code Amend. p.47)

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT					See Standards in Section
	C-VCR Village Commercial Residential	C-H1 Limited Roadside Business	C-CP Planned Commercial	C-RMPC Residential Commercial Multiple Planned	C-RCR Resort and Commercial Recreation	
SERVICE USES						
Child day-care centers	U	U	U	U	—	22.32.050
Child day-care, large family day-care homes	<u>P</u> $\Psi$	<u>P</u> $\Psi$	<u>P</u> $\Psi$	<u>P</u> $\Psi$	—	22.32.050
Child day-care, small family day-care homes	P	P	P	P	—	22.32.050

[BOS app., 12/11/2012]

...

## CHAPTER 22.64 – COASTAL ZONE DEVELOPMENT AND RESOURCE MANAGEMENT STANDARDS

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**TABLE 5-4-a – COASTAL ZONE DEVELOPMENT STANDARDS** (*Dev. Code Amend. p.52*)

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**Notes:**

...

**(4)** See Section See Section 22.20.060 (Height Measurement and Height Limit Exceptions) for height measurement and exceptions. Building height limits may change, as follows:

- a. In C-R1 districts of the Stinson Beach Highlands, the primary building height limit is 17 feet.
- b. Single-family dwellings over 25 feet in height may require Design Review and Variance approval in compliance with Chapters 22.42 (Design Review) and ~~22.54 (Variances)~~ 22.70.150 (Coastal Zone Variances), in addition to a Coastal Permit.

[BOS app. 12/11/2012]

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**TABLE 5-5 – COASTAL –B COMBINING DISTRICT DEVELOPMENT STANDARDS** (*Dev. Code Amend. p.55*)

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**Notes:**

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**(3)** See Section 22.20.060 (Height Measurement and Height Limit Exceptions) for height measurement and exceptions. Primary building height limit in the Stinson Beach Highlands is 17 feet, not 25 feet. Single-family dwellings over 25 feet in height may require Design Review and Variance approval in compliance with Chapters 22.42 (Design Review) and ~~22.54 (Variances)~~ 22.70.150 (Coastal Zone Variances) in addition to a Coastal Permit.

[BOS app., 12/11/2012]

## 22.64.050 – Biological Resources (Dev. Code Amend. p.56)

### A. Submittal requirements.

#### 1. Biological studies.

- a. **Initial Site Assessment Screening.** The Marin County Community Development Agency (CDA) shall conduct an initial site assessment screening of all development proposals to determine the potential presence of Environmentally Sensitive Habitat Area (ESHA). The initial site assessment screening shall include a review of reports, resource maps, aerial photographs, site inspection and additional resources as necessary to determine the presence of ESHA.  
[BOS app. 10/2/2012]
- b. **Site Assessment.** A site assessment shall be submitted for those Coastal Permit applications where the initial site assessment screening ~~may be required to provide a site assessment based on a review of the best available scientific and geographic information~~ reveals the potential presence of an Environmentally Sensitive Habitat Area (ESHA) within 100 feet of the proposed development. The permit will be ~~and~~ subject to a level of review that is commensurate with the nature and scope of the project ~~and the potential existence of an Environmentally Sensitive Habitat Area (ESHA)~~. A site assessment shall be prepared by a qualified biologist hired by the County and paid for by the applicant, and shall confirm the extent of the ESHA, document any site constraints and the presence of other sensitive resources, recommend buffers, development timing, mitigation measures or precise required setbacks and provide other information, analysis and potential modifications necessary to protect the resource. demonstrate compliance with the LCP. Where habitat restoration or creation is required to eliminate or offset potential impacts to an ESHA, a detailed Restoration and Monitoring Plan shall be required, as provided in this section. ~~The Restoration and Monitoring Plan shall be consistent with the guidance provided in the California Coastal Commission LCP Guide for Local Governments, *Protecting Sensitive Habitats and Other Natural Resources* (undated).~~  
[BOS app. 10/2/2012]
- c. **Buffer Areas.** Buffers shall be provided for ESHAs in accordance with the policies of C-BIO-3 (ESHA Buffers), C-BIO-19 (Wetland Buffers), or C-BIO-24 (Coastal Streams and Riparian Vegetation), in combination with the findings of a site assessment, as necessary to ensure the biological integrity and preservation of the habitat they are designed to protect. Maintain ESHA buffers in their natural condition, except as provided in C-BIO-20 (Wetland Buffer Adjustments), C-BIO-25 (Stream Buffer Adjustments) or C-BIO-4 (Protect Major Vegetation).

Determination of ESHA buffer requirements should consider the following:

- 1) Habitat requirements of the ESHA, including the migratory patterns of affected species and tendency to return each season to the same nest site or breeding colony;
- 2) Sensitivity of the ESHA to disturbance;
- 3) Topography of the site;
- 4) Movement of stormwater;
- 5) Permeability of the soils and depth to water table;
- 6) Vegetation present;

- 7) Unique site conditions
- 8) Whether vegetative, natural topographic, or built features (e.g., roads, structures) provide a physical barrier between the proposed development and the ESHA; and Proposed activities; and Behavior and movement of habitat dependent wildlife
- 9) The likelihood of increased human activity and disturbance resulting from the project relative to existing development.

[BOS app. 10/2/2012]

- d. **Habitat Mitigation.** New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate significant impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Residual adverse impacts to ESHA shall be fully mitigated, with priority given to on-site habitat mitigation. Off-site or fee-in-lieu habitat mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site habitat mitigation is more protective in the context of a biological analysis prepared by a qualified scientist and approved by the County of Marin. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.

Habitat mitigation shall occur in accordance with the provisions of C-BIO-21 (Wetland Impact Mitigation) for wetlands or the findings of a site assessment, and shall be provided at a minimum ratio of 2:1 for on-site mitigation; 3:1 for off-site mitigation or 4:1 for an in-lieu fee where applicable. In determining required mitigation, the acreage of habitat impacted shall be determined based on the size of the approved development area, road/driveway area, required fuel modification on the project site, and required vegetation clearance, if any, on adjacent properties. Habitat mitigation may be required at an adjusted ratio or through other appropriate techniques as commensurate with the extent of habitat disruption, based on the specific requirements of the ESHA as determined through the site assessment.

[BOS app. 10/2/2012]

- 2. **Site map.** Coastal Permit applications shall contain a detailed site plan showing existing and proposed construction, with major vegetation, water courses, natural features, and other probable wildlife areas.
- 3. **Restoration and Monitoring Plan.** Restoration and Monitoring Plans shall include the following:
  - a. A clear statement of the ESHA habitat restoration goals. Characterization of the desired habitat, including an actual habitat, that can act both as a model for the restoration and as a reference site for developing success criteria.
  - b. Sampling of reference habitat using the methods that will be applied to the restoration site with reporting of resultant data.
  - c. Quantitative description of the chosen restoration site.
  - d. Requirements for designation of a qualified restoration biologist as the restoration manager who will be personally responsible for all phases of the restoration. Phases of the restoration shall not be assigned to different contractors without onsite supervision by the restoration manager.
  - e. A specific Grading Plan if the topography must be altered.
  - f. A specific Erosion Control plan if soil or other substrate will be significantly disturbed during the course of the restoration.
  - g. A Weed Eradication Plan designed to eradicate existing weeds and to control future invasion by exotic species that is carried out by hand weeding and supervised by a restoration biologist.

- h. A Planting Plan that specifies detailed plant palette based on the natural habitat type that is the model for the restoration, using local native stock and requiring that if plants, cuttings, or seed are obtained from a nursery, the nursery must certify that they are of local origin and are not cultivars. The Planting Plan should provide specifications for preparation of nursery stock and include technical details of planting methods (e.g., spacing, micorrhyzal inoculation, etc.)
- i. An Irrigation Plan that describes the method and timing of watering and ensures removal of watering infrastructure by the end of the monitoring period.
- j. An Interim Monitoring Plan that includes maintenance and remediation activities, interim performance goals, assessment methods, and schedule.
- k. A Final Monitoring Plan to determine whether the restoration has been successful that specifies:
  - 1) A basis for selection of the performance criteria,
  - 2) Types of performance criteria,
  - 3) Procedure for judging success,
  - 4) Formal sampling design,
  - 5) Sample size,
  - 6) Approval of a final report, and
  - 7) Provision for possible further action if monitoring indicates that initial restoration has failed.

[BOS app. 10/2/2012]

**34. Additional information.** Based on review of the provided information, the County may request additional information to address site-specific conditions and/or as part of the environmental review process.

[BOS app. 10/2/2012]

**B. Biological Resource standards.** (*Dev. Code Amend. p.57*)

...

- 4. Invasive plants.** Where feasible, require the removal of non-native, invasive plant species, ~~and~~ revegetation of denuded areas with native plants, and provision of primarily native, drought-tolerant plant species for areas of new or replacement planting, per Land Use Plan Policy C-BIO-6.

[BOS app. 10/2/2012]

...

- 7. Coastal wetlands.** Coastal wetlands shall be preserved and maintained as productive wildlife habitats, water filtering and storage areas, and, as appropriate, recreational open space, by limiting diking, dredging, and draining per Land Use Plan Policies C-BIO-14, C-BIO-15, C-BIO-16, and C-BIO-17, disposing of ~~spoils~~ dredged materials per Land Use Plan Policy C-BIO-18 and mitigating wetland impacts per Land Use Plan Policy C-BIO-21.

[BOS app. 10/2/2012]



8. **Coastal wetland buffers.** Adequate buffers shall be maintained surrounding coastal wetlands per Land Use Policy C-BIO-19 unless an adjustment ~~or exception~~ to standard buffers is granted per Land Use Plan Policy C-BIO-20.

[BOS app. 10/2/2012]

...

9. **Coastal streams, riparian vegetation, and buffers.** Alterations to coastal streams and riparian vegetation shall be limited and adequate buffers shall be provided surrounding those resources per Land Use Plan Policy C-BIO-24, unless an adjustment ~~or exception~~ to the standard buffers is granted per Land Use Plan Policy C-BIO-25. Any alteration of riparian vegetation which is allowed under these policies shall require an erosion control plan and re-vegetation plan that incorporates native species to the maximum extent feasible.

[BOS app. 10/2/2012]

## CHAPTER 22.65 – COASTAL ZONE PLANNED DISTRICT DEVELOPMENT STANDARDS

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### 22.65.030 – Planned District General Development Standards (*Dev. Code Amend. p.73*)

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#### D. Building location:

1. **Clustering requirement.** Structures shall be clustered in a geologically stable, accessible location on the site where their visual prominence is minimized, consistent with needs for privacy. Clustering is especially important on open grassy hillsides; however, a greater scattering of buildings may be preferable on wooded hillsides to save trees. The prominence of construction shall be minimized by placing buildings so that they will be screened by existing vegetation, rock outcroppings or depressions in topography.

~~In the C-APZ and C-ARP agricultural zones, non-agricultural development shall also be clustered or sited to retain the maximum amount of agricultural land and minimize possible conflicts with existing or possible future agricultural use. Non-agricultural development, including division of agricultural lands, shall only be allowed upon demonstration that long-term productivity of agricultural lands would be maintained and enhanced as a result of such development. Non-agricultural development shall be placed in one or more groups on a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space. Proposed development shall be located close to existing roads, and shall not require new road construction or improvements resulting in significant impacts on agriculture, significant vegetation, significant scenic resources, or natural topography of the site. Proposed development shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations. Any new parcels created shall have building envelopes outside any designated scenic protection area.~~

[BOS app. 10/2/2012]

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### 22.65.040 – C-APZ Zoning District Standards (*Dev. Code Amend. p.77*)

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**C. Development standards.** Development permits in the C-APZ district shall also be subject to the following standards and requirements in addition to Section 22.65.030:

#### 1. Standards for agricultural uses:

- a. Permitted development shall protect and maintain continued agricultural use, and contribute to agricultural viability. Development of agricultural facilities shall be sited to avoid agricultural land whenever possible, consistent with the operational needs of agricultural production. If use of agricultural land is necessary, prime agricultural land shall not be converted if it is possible to utilize other lands suitable for agricultural use. In addition, as little agricultural land as possible shall be converted.

[BOS app. 10/2/2012]

- b. Development shall be permitted only where adequate water supply, sewage disposal, road access and capacity and other public services are available to support the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats, have significant effects on groundwater resources, or significantly reduce freshwater inflows to water bodies including Tomales Bay, either individually or cumulatively.
- c. Permitted development shall have no significant adverse impacts on environmental quality or natural habitats, and shall meet all other applicable policies, consistent with the LCP.
- d. In order to retain the maximum amount of land in agricultural production or available for future agricultural uses, farmhouses, intergenerational homes, and agricultural homestay facilities shall be placed in one or more groups along with any non-agricultural development on a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space.

[BOS app. 10/2/2012]

## CHAPTER 22.66 – COASTAL ZONE COMMUNITY STANDARDS

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### 22.66.110 – Dillon Beach Community Standards

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**B. C-R-1:B-D Zoning standards.** The following standards shall apply in those areas of Dillon Beach governed by the C-R-1:B-D zoning district.

...

**2. Setback requirements.** Structures shall be located in compliance with the following minimum setbacks (See Section 22.20.090-100, Setback Measurement Requirements and Exceptions):  
[BOS app. 12/11/2012]

...

## CHAPTER 22.68 – COASTAL PERMIT REQUIREMENTS

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### **22.68.030 – Coastal Permit Required** (*Dev. Code Amend. p.89*)

A Coastal Permit is required for development in the Coastal Zone proposed by a private entity or a state or local agency unless the development is categorically excluded, exempt, or qualifies for a De Minimis Waiver.

Development is defined in Article VIII of this Development Code and is interpreted to include installation of water or sewage disposal systems, the closure of County-managed public accessways, changes in public access to the water including parking availability, and the significant alteration of landforms. Significant alteration of land forms entails the removal or placement of vegetation on a beach, wetland, or sand dune, or within 100 feet of the edge of a coastal bluff, stream, or in areas of natural vegetation designated as environmentally sensitive habitat areas (ESHA). On-going agricultural operations including cultivation, crop and animal management and grazing are not considered to be a significant alteration of landforms development or a change in the density or intensity of the use of land. For the purposes of this Chapter, “on-going agricultural operations” are those which exist presently or historically, and do not entail new encroachment within 100 feet of the edge of a wetland, stream or riparian vegetation. For agricultural uses, a “change in the intensity of use of water, or access thereto” means the development of new water sources such as construction of a new or expanded well or expansion of a surface impoundment.

[BOS app. 10/2/12, 1/15/2013]

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### **22.68.050 – Exempt Projects** (*Dev. Code Amend. p.90*)

The following projects, as determined by the Director, shall be exempt from the requirements of Section 22.68.030 – Coastal Permit Required, unless listed as non-exempt by Section 22.68.060.

...

#### **I. Temporary event.** A temporary event which:

1. Would have a duration of two consecutive days or less; and
2. Would not occupy a sandy beach in Muir Beach, Stinson Beach, Bolinas, or Dillon Beach; and
3. Would not involve a charge for general public admission or seating where no fee is currently charged for use of the same area; and
4. Would not take place in any wetlands, streams and riparian ~~corridors~~ vegetation, other ESHAs, or their buffers.

[BOS app. 10/2/2012]

### **22.68.060 – Non-Exempt Projects** (*Dev. Code Amend. p.92*)

Notwithstanding the provisions of Section 22.68.050 – Exempt Projects, a Coastal Permit shall be required for all of the following projects unless the development is categorically excluded or qualifies for a De Minimis Waiver:

...

**I. Landform alterations.** Any significant alteration of land forms including grading as defined in Section 22.130.030 and the removal or placement of vegetation on a beach, wetland, or sand dune, or within 100 feet of the edge of a coastal bluff, stream, or in areas of natural vegetation designated as environmentally sensitive habitat areas (ESHA).

[BOS app. 1/15/2013]

## CHAPTER 22.70 – COASTAL PERMIT ADMINISTRATION

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### 22.70.030 – Coastal Permit Filing, Initial Processing (*Dev. Code Amend. p.97*)

- A. **Application and filing.** Coastal Permit application submittals shall include all information and other materials required by the Coastal Permit application forms, provided by the Agency. The application and accompanying materials shall be filed with the Agency before or concurrent with an application for any land use permit required by this Article. The Coastal Permit application shall include:
1. Project plans and supporting materials sufficient to determine whether the project complies with all relevant policies of the Local Coastal Program;
  2. Documentation of the applicant's legal interest in all the property upon which work is proposed to be performed. The area of the subject Coastal Permit shall include at least all contiguous properties under the same ownership. The area covered by a proposed project may also include multiple ownerships;  
[BOS app. 10/2/2012]
  3. A dated signature by or on behalf of each of the applicants, attesting to the truth, completeness and accuracy of the contents of the application and, if the signer of the application is not the applicant, written evidence that the signer is authorized to act as the applicant's representative and to bind the applicant in all matters concerning the application: and
  4. Any additional information deemed by the Director to be required for specific categories of development or for development proposed from specific geographic areas.
- B. **Determination of permit category.** The Director shall determine if the proposed project is categorically excluded, qualifies for a De Minimis Waiver, or requires a Coastal Permit that does or does not require a public hearing as follows. With the exception of categorical exclusions, This determinations regarding permit category may be appealed in compliance with Section 22.70.040 – Appeal of permit Category Determination.  
[BOS app., 12/11/2012]

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### 22.70.100 – Notice of Failure to Act (*Dev. Code Amend. p.104*)

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- A. **Notification by County.** Upon a determination that the time limits established in compliance with Government Code Section 65950 et. seq. have expired, the Director shall, within five days of the determination, notify persons entitled to receive notice in compliance with Section 22.70.050 (Public Notice) ~~22.72.080 (Notice of Coastal Permits)~~ that it has taken final action by operation of law in compliance with Government Code Section 65956. The appeal period for projects approved by operation of law shall begin only upon receipt of the County's notice in the office of the Coastal Commission.  
[BOS app. 12/11/2012]

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## **22.70.120 – Expiration Date and Time Extensions** *(Dev. Code Amend. p.104)*

**A. Time limits, vesting, extensions.** Coastal permit time limits, vesting requirements, and extension provisions shall comply with Section 22.70.050 ~~22.56.050~~ – Time Limits and Extensions.

[BOS app. 12/11/2012]

**B. Findings.** In addition to the requirements of Section 22.70.050 ~~22.56.050~~, Coastal Permit extensions may be granted by the Director upon a finding that the project continues to be in conformance with the requirements and objectives of the Marin County Local Coastal Program.

[BOS app. 12/11/2012]

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## **22.70.180 – Potential Takings Economic Evaluation** *(Dev. Code Amend. p.108)*

If the application of the policies, standards or provisions of the Local Coastal Program regarding use of property designated as Environmentally Sensitive Habitat Area (ESHA would likely constitute a taking of private property, then a use that is not consistent with the ESHA provisions of the LCP shall be allowed on the property, provided such use is consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking as determined through an economic evaluation. The applicant shall supplement their application materials to provide the required information and analysis as specified below.

[BOS app. 10/2/2012]

**A. Filing.** The economic evaluation shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any decision on a coastal development permit, the applicant shall provide the following information, unless the Director determines that one or more of the particular categories of information is not relevant to the analysis:

1. The date the applicant purchased or otherwise acquired the property, and from whom.
2. The purchase price paid by the applicant for the property.
3. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.
4. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection d above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.
6. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.
7. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.
8. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
9. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.

10. The applicant's costs associated with the ownership of the property, annualized for each of the last five (5) calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.
11. Apart from any rents received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the last five (5) calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.
12. Any additional information that the ~~City~~ County requires to make the determination.  
[BOS app. 10/2/2012]

**B. Evaluation.** To evaluate whether a restriction would not provide an economically viable use of property as a result of the application of the policies and standards contained in the LCP regarding use of property designated as ESHA, an applicant shall provide information about resources present on the property sufficient to determine whether all of the property, or which specific area of the property, is subject to the restriction on development, so that the scope and nature of development that could be allowed on any portions of the property that are not subject to the restriction can be determined.

Based upon this analysis, the least environmentally damaging feasible alternative shall be identified. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be mitigated to the maximum extent feasible, with priority given to on---site mitigation. Off---site mitigation measures shall only be approved when it is not feasible to mitigate impacts on---site. Mitigation shall not substitute for implementation of the feasible project alternative that would avoid adverse impacts to ESHA.

[BOS app. 10/2/2012]

**C. Supplemental Findings for Approval of Coastal Development Permit.** A Coastal Permit that allows a deviation from a policy or standard of the LCP to provide a reasonable economic use of the parcel as a whole may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or ~~City Council~~ Board of Supervisors, makes the following supplemental findings in addition to the findings required in Section 22.70.070 (Required Findings):

1. Based on the economic information provided by the applicant, as well as any other relevant evidence, no use allowed by the LCP policies, standards or provisions would ~~not~~ provide an economically viable use of the applicant's property.
2. The use proposed by the applicant is consistent with the applicable zoning.
3. The use and project design, siting, and size are the minimum necessary to avoid a taking.
4. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified LCP other than the provisions for which the exception is requested.
5. The development will not be a public nuisance. If it would be a public nuisance, the development shall be denied.

[BOS app. 10/2/2012]



## Definitions, Development Code Section 22.130.030

...

**Agriculture (coastal).** This land use consists of agricultural production, and the facilities that are accessory and incidental to, in support of, and compatible with the property's agricultural production, including agricultural accessory structures and activities, one farmhouse per legal lot, ~~up to two~~ intergenerational ~~homes~~ housing, agricultural worker housing, ~~limited~~ agricultural product sales and processing, non-profit and owner-operator conducted agricultural tours, and agricultural homestay facilities.

[BOS app. 10/2/2012]

...

**Coastal Stream (coastal).** Streams in the Coastal Zone, perennial or intermittent, which are mapped by the United States Geological Survey (USGS) in the National Hydrographic Dataset. ~~In addition, those ephemeral streams that are not mapped by the United States Geological Survey if the stream: (a) supports riparian vegetation for a length of 100 feet or more, or (b) supports special status species or another type of ESHA, regardless of the extent of riparian vegetation associated with the stream.~~

(Dev. Code Amend. p.119)

[BOS app. 10/2/2012]

...

**Endangered Species.** An Endangered Species is an animal or plant species in danger of extinction throughout all or a significant portion of its range, as determined by the U.S. Fish and Wildlife Service or National Oceanic and Atmospheric Administration consistent with the Endangered Species Act of 1973, or as designated by the California Department of Fish and ~~Game~~ Wildlife consistent with the California Endangered Species Act.

(Dev. Code Amend. p.127)

[BOS app. 10/2/2012, 11/13/2012]

...

**Environmentally Sensitive Habitat Area (ESHA) (coastal).** Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. ESHAs include wetlands, coastal streams and riparian vegetation, and habitats of plant and animal species listed under the Federal or California Endangered Species Act and existing populations of the plants listed as 1b or 2 by the California Native Plant Society.

~~The ESHAs in the County of Marin are habitats that are essential for the specific feeding, cover, reproduction, water, and activity pattern requirements of existing populations of special status species of plants and animals, as designated by the California Department of Fish and Game and identified in the California Natural Diversity Database. In addition, ESHAs include existing populations of the plants listed as 1b or 2 by the California Native Plant Society and the following terrestrial communities that are identified in the California Natural Diversity Database:~~

- ~~A. Central dune scrub~~
- ~~B. Coastal terrace prairie~~
- ~~C. Serpentine bunchgrass~~

~~D. Northern maritime chaparral~~

~~Wetlands, estuaries, lakes and portions of open coastal waters are considered ESHAs. Coastal streams and the riparian vegetation surrounding them are considered ESHAs.~~

~~(Dev. Code Amend. p.127)~~

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

...

**Environmentally Sensitive Habitat Area (ESHA), Terrestrial (coastal).** Includes non-aquatic ESHA, including habitats of plant and animal species listed under the Federal or California Endangered Species Act and existing populations of the plants listed as 1b or 2 by the California Native Plant Society; coastal dunes; groves of trees that provide colonial nesting and roosting habitat for butterflies or other wildlife; and riparian vegetation that is associated with an ephemeral watercourse. Does not include “Stream (coastal)” or “Wetland (coastal)”. See also, “Environmentally Sensitive Habitat Area (ESHA)(coastal)” and “Riparian Vegetation (coastal)”.

~~[BOS app. 1/15/2013]~~

...

**Grading (coastal)** – Any excavation, stripping, cutting, filling, or stockpiling of soil material, or any combination thereof that exceeds 150 cubic yards of material. As used in this Development Code, grading does not include plowing, tilling, harrowing, aerating, disking, planting, seeding, weeding, fertilizing or other similar routine agricultural cultivation practices.

~~[BOS app. 1/15/2013]~~

...

**Livestock Operations, Sales/Feed Lots, Stockyards (land use).** This land use consists of specialized and intensive commercial animal facilities including animal sales yards, stockyards, and cattle feedlots. Feedlots are any site where cattle are held and maintained for the purposes of feeding/fattening, for market or milking, and where at least 60 percent of the feed is imported or purchased. Does not include slaughterhouses or rendering plants; see “Slaughterhouses and Rendering Plants.” See also, “Dairy Operations.”

~~[BOS app. 1/15/2013]~~

...

**Site Restoration Program (coastal).** A site restoration program is a documented plan to restore or enhance the ecological quality of an area, which is prepared by a qualified specialist in biology. Site restoration programs must contain the following key components:

- ~~A. A clear statement of the goals of the restoration for all habitat types. Characterization of the desired habitat, including an actual habitat, that can act both as a model for the restoration and as a reference site for developing success criteria.~~
- ~~B. Sampling of reference habitat using the methods that will be applied to the restoration site with reporting of resultant data.~~
- ~~C. Quantitative description of the chosen restoration site.~~
- ~~D. Requirements for designation of a qualified restoration biologist as the Restoration Manager who will be personally responsible for all phases of the restoration.~~
- ~~E. Prohibition on assignment of different phases of the restoration to different contractors without onsite supervision by the restoration manager.~~
- ~~F. A specific grading plan if the topography must be altered.~~

- ~~G. A specific Erosion Control plan if soil or other substrate will be significantly disturbed during the course of the restoration.~~
- ~~H. A Weed Eradication Plan designed to eradicate existing weeds and to control future invasion by exotic species that is carried out by hand weeding and supervised by a restoration biologist.~~
- ~~I. A Planting plan that specifies detailed plant palette based on the natural habitat type that is the model for the restoration and using local native stock and requiring that if plants, cuttings, or seed are obtained from a nursery, the nursery must certify that they are of local origin and are not cultivars. The Planting plan should provide specifications for preparation of nursery stock and include technical details of planting methods (e.g., spacing, *mycorrhizal* inoculation, etc.)~~
- ~~J. An Irrigation Plan that describes the method and timing of watering and ensures removal of watering infrastructure by the end of the monitoring period.~~
- ~~K. An Interim Monitoring Plan that includes maintenance and remediation activities, interim performance goals, assessment methods, and schedule.~~
- ~~L. A Final Monitoring Plan to determine whether the restoration has been successful that specifies:
  - ~~a. A basis for selection of the performance criteria,~~
  - ~~b. Types of performance criteria,~~
  - ~~c. Procedure for judging success,~~
  - ~~d. Formal sampling design,~~
  - ~~e. Sample size,~~
  - ~~f. Approval of a final report, and~~
  - ~~g. Provision for possible further action if monitoring indicates that initial restoration has failed.~~~~

~~M. An ongoing Repair and Maintenance Plan.~~

~~(Dev. Code Amend. p.165)~~

[BOS app. 10/2/2012]

...

**Threatened Species.** A Threatened Species is an animal or plant species likely to become endangered within the foreseeable future throughout all or a significant portion of its range, as determined by the U.S. Fish and Wildlife Service or National Oceanic and Atmospheric Administration consistent with the Federal Endangered Species Act of 1973, or as designated by the California Department of Fish and Game Wildlife consistent with the California Endangered Species Act.

~~(Dev. Code Amend. p.172)~~

[BOS app. 10/2/2012, 11/13/2012]

# MAP 25 - Revised 1/7/13

## COASTAL, RIDGE AND BAY TRAILS

