

COMMUNITY DEVELOPMENT AGENCY

November 13, 2012

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SUBJECT: Local Coastal Program Amendments (LCPA)
Second Board Public Hearing – **Agriculture and Biological Resources**

Building and Safety
Environmental Health Services
Planning
Federal Grants
Redevelopment Agency

www.marincounty.org/cda

Dear Members of the Board,

RECOMMENDATION:

Continue the consideration of, and provide staff direction on each of the Local Coastal Program Amendments recommended by the Planning Commission and additional alternatives to Agriculture, Biological Resources and policies governing interpretation of the LCP as set forth in attached Exhibits 1 and 2.

BACKGROUND:

At your October 2nd public hearing, the Board specifically discussed a number of Local Coastal Program Amendments relating to Agriculture and Biological Resources, and provided direction to staff on those that the Board accepted, and those that should be revised.

Exhibit 1 of this report summarizes those items the Board completed action on under the heading "**Approved by the Board.**" The complete text of each item is provided in the Exhibit 2, the compilation of revisions ("**Compilation**") in underline and cross-out format.

Due to time limitations, the Board was only able to provide general direction on many other policy and code amendments, including most of the Biological policies. Unfinished items are also shown in Exhibit 1 under the headings of "**Board Action Required.**" The policies as currently recommended by staff are included in each of these sections. The Board is requested to review each policy and accept or modify it as you progress through the report. For the Board's background and convenience, each section also provides a reference to where the issue is discussed in the Detailed Analysis of the Oct. 2, 2012 report.

As a reminder, Attachments 3 and 4 of the October 2nd staff report addressed the other Agriculture and Biological Resources items as recommended by the Planning Commission, and provided for your Board's approval of them on a "consent" agenda basis. That is to say if your Board as a whole has no objections to these changes, they will be deemed approved. Of course, any Board member may identify any issue for public discussion before the LCPAs are approved.

In anticipation of the Board completing action on the Agriculture and Biological Resources sections of the LCPA, the December 11, 2012 has been re-noticed as a

hearing and discussion of the balance of the LCP Amendments, including the Environmental Hazards, the Built Environment, WECS and all other proposed Amendments.

The Coastal Commission staff did not provide any written comments for the October 2nd hearing, nor have received any communication from them to date for this hearing. We have, however, been able to meet with representatives of the Marin County Farm Bureau as well as with the Environmental Action Committee of West Marin (EAC) together with other environmental group representatives since October 2nd.

SUMMARY:

The LCP Amendments adopted by the Planning Commission on February 23, 2012 are the baseline for your Board's review. In response to issues raised by the Coastal Commission staff and others, alternative language has been offered in some cases for your Board's consideration. Two Exhibits comprise the substance of the staff report:

- **Exhibit 1** identifies the issues that were resolved in the Board's October 2, 2012 meeting, and discussion and recommendations on the remaining proposed Agriculture and Biological Resources amendments.
- **Exhibit 2** is a compilation of revisions to the Planning Commission-approved text, including further changes staff is recommending with this report.

FISCAL/STAFFING IMPACT:

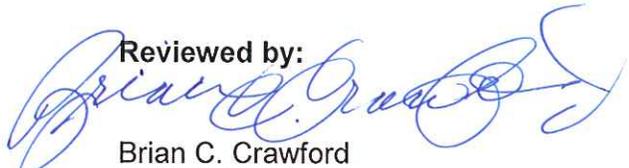
No fiscal or staffing impact as a result of the LCPA is expected since the work to complete the LCP amendments is budgeted in the current fiscal year and programmed in the Department's Performance Plan.

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

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

SIGNATURE:


 Jack Liebster
 Principal Planner

Reviewed by:

 Brian C. Crawford
 Director

ATTACHMENTS:

1. Exhibit 1: Staff Recommendation
2. Exhibit 2: Compilation of Revisions

EXHIBIT #1
Local Coastal Program Amendments (LCPA)

Staff Recommendation

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PART ONE: AGRICULTURE

Agricultural Operations

Approved by Board (10-2-12), no further action required:

- The Board accepted Alternative text to clarify that viticulture shall be a permitted (appealable) use rather than part of the principal permitted use in the C-APZ district. (*Policy C-AG-2*)
 - For approved text: see Compilation (Exhibit 2, Policy C-AG-2, p. 2; and Section 22.62.060, p. 29)
 - For analysis: see 10-2-12 Staff Report, Att. 2, p. 3
- The Board accepted Alternative text to clarify that on-going agriculture operations including cultivation, crop and animal management, and grazing are not considered to be development. (*Section 22.62.060*)
 - For approved text: see Compilation (Exhibit 2, Section 22.68.030, p. 32)
 - For analysis: see 10-2-12 Staff Report, Att. 2, p. 3

Diversified Agricultural Uses as the Principal Permitted Use in C-APZ

Approved by Board (10-2-12), no further action required:

- The Board accepted the definition of Agriculture as a single group of functionally-related activities and designated the Agricultural Principal Permitted Use as consisting of:
 - agricultural production and associated accessory structures (barns, fences, stables, corrals, coops and pens, and utility facilities)
 - one farmhouse
 - one intergenerational home
 - agricultural worker housing
 - limited agricultural product sales and processing
 - educational tours
 - agricultural homestay facilities with three or fewer guest rooms
- For approved text: see Compilation (Exhibit 2, Policy C-AG-2, p.2)
- For analysis: see 10-2-12 Staff Report, Att. 2, p. 9

BOARD ACTION REQUIRED

22.32.023 – Agricultural Homestays

DISCUSSION: To ensure that Agricultural Homestays are accessory and incidental to the property's agricultural production, staff recommended several restrictions be added to the Agricultural Homestay standards contained in Development Code Section 22.32.023. Since these revisions were shown in Attachment 2 but not included in Attachment 1 to the 10/2/12 staff report, they are being brought forward again for Board consideration.

PROPOSED EDIT:

▪ **22.32.023 – Agricultural Homestays (Coastal)**

...

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.*

- For approved text: see Compilation (Exhibit 2, Section 22.32.023, p. 24)
- For analysis: see 10-2-12 Staff Report, Att. 2, p. 9

BOARD ACTION REQUIRED

C-AG-2 Coastal Agricultural Production Zone (C-APZ);

22.62.060 – Coastal Agricultural and Resource-Related Districts

DISCUSSION: In response to testimony, the Board noted that use of the term “utility facilities” in the description of principal permitted uses in the C-APZ could be misunderstood to include wind energy conversion systems (WECS). To avoid confusion, staff recommends adding the following clarification as necessary throughout the LCPA to indicate that principal permitted accessory structures or uses appurtenant and necessary to the operation of agricultural uses include those listed below.

PROPOSED EDIT:

“...barns, fences, stables, corrals, coops and pens, and utility facilities (not including wind energy conversion systems and wind testing facilities)”.

- For approved text: see Compilation (Exhibit 2, Policy C-AG-2, p. 2; and Section 22.62.060.B.1, p. 29)

Intergenerational Housing

Approved by Board (10-2-12), no further action required:

- The Board supported the concept of Intergenerational Housing as a means to support existing agricultural operations, ensure the viability of agriculture in the Coastal Zone, and facilitate multi-generational family farm operation and succession.
 - No changes to Planning Commission Approved LCPA: see Compilation (Exhibit 2, Policy C-AG-5, p.5)
 - For analysis: see 10-2-12 Staff Report, Att. 2, pp. 11-15

- The Board supported LCPA provisions which impose a limit of no more than two intergenerational units per property subject to a total size restriction (in combination with the main farmhouse) of 7,000 square feet. The Board discussed whether a fixed size limit (such as 2,000 square feet) should also be applied to intergenerational homes but did not provide direction to make a change.
 - No changes to Planning Commission Approved LCPA: see Compilation (Exhibit 2, Policy C-AG-5, p.5)
 - For analysis: see 10-2-12 Staff Report, Att. 2, p. 11

Background on Deed Restrictions:

- The Board requested more information regarding how intergenerational housing would be limited to family members and whether occupancy restrictions could realistically be enforced. That information is provided below.
 - Occupancy Restrictions - Coastal Permit conditions of approval would require preparing and recording a deed restriction which would run with the land in perpetuity and serve to notify current and future property owners that an approved intergenerational home or homes:
 - Must be solely and continuously occupied by the owner/operator's immediate family,
 - May not be subdivided or sold separately from the remainder of the property, and
 - Must be maintained in conformance with applicable zoning, building, and other ordinances including obtaining all appropriate permits prior to any change in use.

 - Enforcement - Staff acknowledges there are practical challenges with monitoring and enforcing the type of occupancy restrictions proposed for intergenerational housing. However, the likelihood of abuse would be limited given:
 - The acknowledged need for farm family housing in the agricultural community,
 - The small number of intergenerational units permitted on any given property,
 - The presumption that most individuals behave lawfully and would comply with legal restrictions to which they voluntarily agreed, and
 - The efficacy of the complaint-driven enforcement process that currently generates most enforcement actions.

 - Conclusion – The proposed LCPA intergenerational housing provisions would provide farm families with a small degree of additional housing flexibility while at the same time limiting the total square footage of home development, and diminishing the threat that non-agricultural rural estate

development will displace agriculture. Development standards for farm family homes would protect against impacts to coastal resources. Providing an option for smaller homes to meet the operational needs of the farm family would also reduce pressure to subdivide farmland. Overall, the benefits of trusting and supporting the integrity and livelihood of Marin's farming families far outweigh the challenges of pursuing enforcement on the small fraction of cases where someone might choose to violate legal restrictions which they voluntarily placed on their property.

BOARD ACTION REQUIRED:

Form of Deed Restriction

DISCUSSION: The Board's questions regarding the enforcement of occupancy requirement for intergenerational housing are addressed above and in the LCPA text approved by the Planning Commission and additional clarification included in Supplement #1 to the 10/2/12 Staff Report (page 1), shown below:

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

...

F. Restrictive Covenant. *Intergenerational housing requires the preparation and ~~dedication~~ recording 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 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.*

To address those limited cases where an intergenerational home is no longer needed for a family member, the Board may wish to direct staff to add deed restriction provisions which, by order of preference:

1. Stipulate that the unit may also be occupied by agricultural workers or used as an agricultural homestay (both of which are part of the principal permitted agricultural use of the property).
2. Allow the owner to apply to convert the unit to deed restricted affordable or locally-employed housing through a Coastal Permit Amendment process.

Conservation Easements

Approved by Board (10-2-12), no further action required:

- The Board supported LCPA's continued use of conservation easements as a means of protecting and enhancing agriculture in the Coastal Zone where a property is subdivided or developed with non-agricultural uses. The Board also agreed that the farmhouse, intergenerational homes, and agricultural worker housing are agricultural development and therefore their development would not subject to dedication of conservation easements.
 - No changes to Planning Commission Approved LCPA: see Compilation (Exhibit 2, Policy C-AG-7, p.6)
 - For analysis: see 10-2-12 Staff Report, Attachment #2, p.16-20

Other Agricultural Issues

Approved by Board (10-2-12), no further action required:

- The Board had no objections to the following revisions described in Attachment 4 of the 10-2-12 Staff Report:
 - Revise **Program C-AG-2.a** to consider additional categories of agricultural development that may qualify to be added to existing Agricultural Exclusions.
 - For approved text: see Compilation (Exhibit 2, Program C-AG-2.a, p.3)
 - For analysis: see 10-2-12 Staff Report, Attachment #4, p.2
 - Revise **Policy C-AG-7** and **Sections 22.65.030.D** and **22.65.040.C.1** to provide further direction regarding the siting of agricultural facilities and to clarify related language regarding clustering.
 - For approved text: see Compilation (Exhibit 2, Policy C-AG-7, p.5-6, and Sections 22.65.030.D and 22.65.040.C.1, p 30-31)
 - For analysis: see 10-2-12 Staff Report, Attachment #4, p.5
 - Revise non-Coastal Development Code **Section 22.44.030** to ensure compliance with the LCP when a Master Plan is prepared pursuant to Chapter 22.44 and modify **Section 22.70.030** to carry forward to the Coastal Permit the current Master Plan requirement of including contiguous properties under the same ownership.
 - For approved text: see Compilation (Exhibit 2, Section 22.70.030, p.32)
 - For analysis: see 10-2-12 Staff Report, Attachment #4, p.14

PART TWO: BIOLOGICAL RESOURCES

INTRODUCTION

Marin County's Coastal Zone contains extensive natural areas and habitat for a wide range of threatened and endangered species. While much of the Coastal Zone is preserved in open space through federal, state and county agencies and MALT, important biological resources are also intertwined with the villages and working landscape of farms and ranches that characterize the area. An important objective of the LCP Amendments is to protect and enhance biological resources at the same time that coastal communities, agriculture, and visitors continue to flourish.

Environmentally sensitive habitat areas (ESHA) are the habitats that support rare or especially valuable species which could otherwise be easily disturbed or degraded by human activities and development. The ESHA policies of the LCP Amendments generally fall into the following structure:

- All ESHA: C-BIO-1 through C-BIO-5
 - Terrestrial ESHA: C-BIO-3.3, C-BIO-7, C-BIO-9 through C-BIO-11
 - Wetlands: C-BIO-14 through C-BIO-23
 - Streams and Riparian Vegetation: C-BIO-23 through C-BIO-26

While the Board of Supervisors focused their discussion primarily on Agriculture policies at the October 2 hearing, some general comments were provided on the topic of biological resources. Responses to the Board comments are provided in the body of this report.

During the hearing, several Board members commented on the use of phrases such as “feasible” and “to the extent possible”, in which they expressed a desire to avoid language that creates uncertainty in intent and application and sought better clarity in crafting of policies for buffer adjustments. In response staff has re-evaluated the PC-approved policies that incorporate such phrases and has provided modified policies below.

Where such the terms are verbatim from Coastal Act policies, they are retained. For example, Policy C-BIO-24.1.a incorporates language directly from Coastal Act § 30236, which allows flood control projects where “no other method for protecting existing structures in the flood plain is feasible” and such protection is necessary for public safety or to protect existing development. Other uses of such terms, however, have been modified or clarified.

“Feasible” is a term specifically defined within the Coastal Act and incorporated verbatim into Development Code § 22.30.130:

Section 30108 Feasible

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

The policies of Chapter 3 of the Coastal Act apply the test of “feasibility” in different contexts. In Section 30233 relating to filling of wetlands¹ and Section 30236 regarding streams², for example, the Coastal Act

¹ Section 30233(a): The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following...

² Section 30236: Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (l) necessary water supply projects, (2) flood control projects where no other method for

identifies certain uses that are allowed, but requires that “feasibility” be considered in evaluating ways to reduce adverse environmental impacts.

In contrast, Section 30240, which defines the Coastal Act’s policies for Environmentally Sensitive Habitat Areas (ESHAs), does not make feasibility a standard.

Section 30240 Environmentally sensitive habitat areas; adjacent developments

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Within an ESHA itself, part (a) of the policy allows only resource-dependent uses. For the area adjacent to an ESHA (i.e., the “buffer”), part (b) provides no specific list of development to be allowed, but any such development “shall be sited and designed to prevent impacts which would significantly degrade those areas...” The Coastal Act itself does not specify the requirement of “buffers”, although in practice buffers have become a widely used means of protecting habitat areas. But the Coastal Act is clear: “preventing impacts which would significantly degrade” ESHAs is the bottom line.

The Board indicated at the October 2, 2012 hearing that there should be flexibility to accommodate situations where there is no practical or realistic alternative, such as a modest addition to an existing home in the buffer, as long as the essential Coastal Act requirement of preventing impacts to adjacent ESHA is met. However the Board was not comfortable with particular words and phrases such as “feasible,” “minimal incursion,” “no possible alternative,” “equitable,” “severe hardship” or similar phrases to be used as a test for whether an adjustment could be made to the standard buffer requirement. Therefore, the recommended changes below simply employ the Coastal Act test itself, and require siting, design and mitigation measures specified in a site assessment to be applied to prevent impacts to the ESHA and assure continuance of its habitat.

If the Board wishes to consider additional criteria for permitting development in a buffer area, staff could analyze either or both of two further alternatives that could be employed in conjunction with the other ESHA protection requirements proposed:

- **Maximum Limit for Development in the Buffer:** A cap could be set on the amount and/or location of incursion into the buffer area similar to that which the Board approved for Stream Conservation Areas (SCAs) in Countywide Plan *Program BIO-4.a*:

...require compliance with the incorporation of best management practices into the proposed project and could consider modest additions to existing buildings that would not result in significant impacts to riparian resources, such as additions that do not exceed 500 square feet of total floor area and that do not increase the existing horizontal encroachment into the SCA...

- **Create a Net Environmental Benefit:** Require that a project provide environmental benefits in addition to avoiding impacts on the ESHA as already provided in the proposed buffer adjustment policies. These could include features such as retrofitting existing structures to control runoff and

protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

increase imperviousness, removing invasive non-native plants or establishing additional riparian vegetation to protect ESHA resources.

Finally, it is critically important to bear in mind two significant constraints incorporated in the LCPA policies proposed below:

1. At the request of the Coastal Commission staff, the buffer policies (C-BIO-20.2 and 25.2) have included a minimum 50 foot width for stream, riparian and wetland buffers:

*The buffer shall not be adjusted to a distance of less than **50 feet** in width from the edge of the wetland.*

2. Under the Coastal Act, the area within 100 feet of streams and wetlands is in the Coastal Commission appeal zone. Thus, any adjustment of buffers made by the County would be appealable to the Coastal Commission. As history has shown, public groups, individuals and the Coastal Commission staff itself will be carefully scrutinizing how the County carries out these policies to assure that its actions fully protect environmentally sensitive habitat areas.

In summary, based upon feedback from the Board, along with comments submitted by the community ahead of and during the October 2 hearing, the policies for wetlands, buffers, and buffer adjustments were reviewed in light of the following:

1. **Basis in Coastal Act:** policies must be consistent with and adequate to carry out the policies of the Coastal Act and should not be applied out of context. For example, the phrase “no feasible less environmentally damaging alternative” is a standard of Coastal Act § 30233 with regard to diking and filling of wetlands but it does not appear in Coastal Act § 30240(b) (the basis for buffers), which provides simply that development shall not significantly degrade the ESHA and shall be compatible with the continuance of the habitat. Proposed revisions to Policy C-BIO-20 and C-BIO-25 better relate to the Coastal Act by properly aligning policies;
2. **Structural clarity:** ESHA policies address three distinct concepts: the resource (e.g., a wetland); the buffer (which functions to protect the resource); and the buffer adjustment (i.e., process/criteria by which to evaluate development within a buffer);
3. **Avoiding redundancy:** policies should be concise and avoid unnecessary repetition (e.g., C-BIO-2.1 is an “umbrella” policy which states that resource-dependent uses are allowed in ESHA; this does not need to be re-stated in C-BIO-14).
4. **Internal consistency:** similar policies (i.e., wetlands vs. streams/riparian) should possess similar structure and standards; and
5. **Content:** policies should clearly convey the standards for ESHA protection as well as the procedure, limited range of circumstances, and standard of review for adjusting a buffer.

Given this analysis, some restructuring and revision of the ESHA policies is proposed. While the policies remain similar in intent to what was presented to the Board on October 2, they are revised for the reasons described above as well as for clarity. The Board provided general observations on the BIO policies on October 2, but did not have time to act upon most of them. Therefore most the items below are shown as “Board Action Required.”

Types of ESHA and ESHA Definition

BOARD ACTION REQUIRED:

C-BIO-1 Environmentally Sensitive Habitat Areas

DISCUSSION: The 10/2/12 staff report presented revisions to Policy C-BIO-1 that would establish terrestrial ESHA as a distinct category of environmentally sensitive habitat area (ESHA). The memorandum also presented an alternative definition of ESHA that includes wetlands, streams/riparian vegetation, and habitat of rare and endangered species. The Board did not raise any specific issues with respect to either revision.

PROPOSED EDIT:

- Clean text of the proposed policy and definition is provided below. For tracked changes (strikeout/underline) to the Planning Commission Approved LCPA text: see Compilation (Exhibit 2, Policy C-BIO-1, p. 9; and Section 22.130.030, p. 38)
- For analysis: see 10-2-12 Staff Report, Att. 2, pp. 24 - 25

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. *For the purposes of this Chapter, ESHA is addressed in three general categories: wetlands, streams and riparian vegetation, 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.*

Definition:

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 special-status species of plants and animals (i.e., 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).*

BOARD ACTION REQUIRED:

C-BIO-2 ESHA Protection

DISCUSSION:

The 10/2/12 staff report recommended revisions to C-BIO-2 which would mirror Coastal Act § 30240(a) in requiring that ESHAs be protected against significant disruption of habitat value and allow only uses dependent upon such resources. LCP Units I and II similarly incorporate Coastal Act § 30240(a). The Board did not comment specifically on this issue.

- **Site Assessments:** The 10/2/12 staff report presented an alternative to the LCP amendments that would provide clarity around the purpose and procedures for site assessments. Board members commented favorably with regard to the expanded site assessment procedures and criteria; however, since these policies were not discussed in detail they are being brought forward again for Board consideration. Site assessments are addressed in Policy C-BIO-2.5 and Development Code § 22.64.050, which in summary provide for the following:
 - *Two-tier process:* Initial site assessment screening and site assessment (as needed).
 - *Contents of Assessment:* Confirm extent of ESHA; document site constraints; recommend site development, buffer, timing, and mitigation measures to protect the resource.
 - *Mitigation standards:* Minimum ratio of 2:1 on-site, 3:1 off-site, or 4:1 for in-lieu fee.
- **Further Revisions to C-BIO-2:** The Board expressed concern about the use of the words “feasible” and “possible” and requested that staff revisit the use of such language within the Biological Resources policies. Feedback received from the public indicated that Policy C-BIO-2.1 as proposed in the memorandum for 10/2/12 is unclear due to the use of the term “feasible.”

The singular standard of review for uses within ESHAs under the Coastal Act is protection against “significant disruption of habitat values” (Coastal Act § 30240(a)). LCP Units I and II similarly incorporate the provisions of Coastal Act § 30240(a). Policy C-BIO-2 as presented in the October 2 report introduced the concept of feasibility in C-BIO-2.1, and incorporated standards in C-BIO-2.4 that were adapted from an incongruous policy of the Coastal Act (Coastal Act §30233(a) refers to diking, filling or dredging of marine resources). Staff recommends that the Board consider additional revisions to C-BIO-2 which more accurately align with the Coastal Act policy for ESHA.

- **Public Access:** On October 2, some Board members discussed the topic of public access within ESHAs and their buffers and requested further clarification. Following the meeting, staff consulted with the Marin County Parks Department on this topic, and it was clear that while all efforts are made to avoid ESHA, it is not possible to assure that ESHAs and their buffers are completely avoided in all cases. Further evaluation of Coastal Commission permit decisions reveals that public access is frequently identified as a resource-dependent use. In all instances, any proposed public access must be reviewed in light of the Coastal Act requirements of § 30240 if such access is proposed within an ESHA or its buffer.

PROPOSED POLICY C-BIO-2 (Revised):

- Clean text of the proposed policies is provided below. For tracked changes (strikeout/underline) to the Planning Commission Approved LCPA text: see Compilation (Exhibit 2, Policy C-BIO-2, pp. 9-10)
- For analysis: see 10-2-12 Staff Report, Att. 2, pp. 26-33

C-BIO-2 ESHA Protection

1. *Protect ESHAs against disruption of habitat values, and only allow uses within those areas that are dependent on those resources or otherwise 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.*
2. *Control public access to ESHAs, including the timing, intensity, and location of such access, to protect against significant disruption of habitat values. Public access trails are considered resource dependent uses*
3. *Avoid fences types, roads, and structures that significantly inhibit wildlife movement, especially access to water.*
4. *Development proposals within or adjacent to ESHA will be reviewed subject to a biological site assessment prepared by a qualified biologist hired by the County and paid for by the applicant. The purpose of the biological site assessment is to confirm the extent of the ESHA, document any site constraints and the presence of other sensitive biological resources, recommend buffers, development timing, mitigation measures or precise required setbacks, provide a site restoration program where necessary, and provide other information, analysis and modifications appropriate to protect the resource.*

Terrestrial ESHA Buffers

Approved by Board (10-2-12), no further action required:

- The Board concurred that buffers are distinct from the ESHA. (*Policy C-BIO-3.1 and 3.2*)
 - For approved text: see Compilation (Exhibit 2, Policy C-BIO-3, p. 10)
 - For analysis: see 10-2-12 Staff Report, Att. 2, p. 36

BOARD ACTION REQUIRED:

C-BIO-3 ESHA Buffers

DISCUSSION: The staff report for 10/2/12 recommended establishment of Policy C-BIO-3 (ESHA Buffers) and incorporated a Coastal Commission staff recommendation that buffers be established for terrestrial ESHA (C-BIO-3.3). A buffer of 50 feet is recommended, which may be adjusted as appropriate to protect the ESHA in accordance with the findings of a biological site assessment. Board members did not comment specifically on this topic; however, some minor modifications to the policy are included below, with the tracked changes shown in the Compilation.

PROPOSED POLICY C-BIO-3 (Revised):

- Clean text of the proposed policies is provided below. For tracked changes (strikeout/underline) to the Planning Commission Approved LCPA text: see Compilation (Exhibit 2, Policy C-BIO-3, p. 10)
- For analysis: see 10-2-12 Staff Report, Att. 2, p. 36

C-BIO-3 ESHA Buffers.

1. *In areas adjacent to ESHAs and parks and recreation areas, site and design development to prevent impacts that would significantly degrade those areas, and to be compatible with the continued viability of those habitat and recreation areas.*
2. *Provide buffers for wetlands, streams and riparian vegetation in accordance with C-BIO-19 and C-BIO-24, respectively.*
3. *Establish buffers for terrestrial ESHA to provide separation from development impacts. Maintain such buffers in a natural condition, allowing only those uses that will not significantly degrade the habitat. Buffers for terrestrial ESHA shall be 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.*

Wetlands

BOARD ACTION REQUIRED:

C-BIO-14, -15, -19, and -20: Wetlands

DISCUSSION:

The LCP Amendments state that wetlands are considered ESHA and thus are subject to the corresponding ESHA protections (Policy C-BIO-1.2: "...ESHA is addressed in three general categories: wetlands, streams and riparian areas, and terrestrial ESHAs".) Policies concerning all ESHA are provided in C-BIO-2 (ESHA Protection) and C-BIO-3 (ESHA Buffers). More specific guidance for uses in wetlands is provided in Policies C-BIO-14 (Wetlands) and C-BIO-15 (Diking, Filling, Draining and Dredging).

10/2/12 Staff Report: The report for the Board's October 2 hearing divided discussion of wetlands into several sub-sections, summarized below.

- **Wetlands:** The following revisions were proposed for Policy C-BIO-14 (Wetlands):
 - Return to existing policy of LCP Unit II regarding agriculture and grazing in wetlands which allows such use if it "presently exists" (C-BIO-14.3).
 - *For analysis: see 10-2-12 Staff Report, Att. 4, p. 22*
 - Where wetlands emerge due to agricultural use (e.g., tire rut), allow continued agricultural use and exempt such wetlands from buffer requirements if the land remains in agricultural production and does not provide habitat for threatened/endangered species (C-BIO-14.4).
 - *For analysis: see 10-2-12 Staff Report, Att. 2, p. 39*
- **Buffers:** The following revisions were proposed for Policy C-BIO-20:
 - Establish an "absolute minimum" buffer of 50 feet for wetlands, in accordance with Coastal Commission staff guidance.
 - *For analysis: see 10-2-12 Staff Report, Att. 2, p. 48*
 - Provide more specific direction regarding consideration of site assessment findings and siting/design measures in evaluating requests for buffer adjustments.
 - *For analysis: see 10-2-12 Staff Report, Att. 2, p. 48*
 - Provide further guidance about buffer adjustments adjoining artificially-created wetlands.
 - *For analysis: see 10-2-12 Staff Report, Att. 4, p. 26*

Uses in Wetlands: Uses in wetlands are governed primarily by C-BIO-2 (which allows for resource-dependent uses), C-BIO-14 and C-BIO-15. As provided in the revisions that follow, language in Policy C-BIO-14 that is redundant with C-BIO-2 and C-BIO-15 would be eliminated (i.e., resource-dependent uses; diking, filling, draining, dredging). Once the policies are approved by the Board, they should be re-ordered for improved sequencing, so that C-BIO-14 directly precedes Policy C-BIO-19.

Wetland Buffers: Policy C-BIO-19 establishes the wetland buffer requirement:

- Minimum 100 feet in width, maintained in natural condition;
- No development other than that which is authorized within the wetland (Policy C-BIO-2, C-BIO-14, C-BIO-15) or through a buffer adjustment (Policy C-BIO-20) (this text relocated/adapted from C-BIO-20 as presented in *10-2-12 Staff Report, Att. 5, p. 4*)

Wetland Buffer Adjustments: Policy C-BIO-20 sets forth the circumstances, process and criteria for considering buffer adjustments. As previously noted, the Coastal Act standard for buffers is focused on impacts to the ESHA. The LCP Amendments would:

- Incorporate the standard of 30240(b) by providing that development shall not significantly

- degrade the resource and will be compatible with continuation of the habitat;
- Maintain a standard buffer of 100 feet, but establish an absolute minimum buffer of 50 feet (consistent with Coastal Commission staff direction)

In sum, Policy C-BIO-20 retains the standard 100 foot buffer, while allowing consideration of siting, design, best management practices and mitigations through a site assessment to protect ESHA resources. Further revisions to Policy C-BIO-20 have been proposed in order to mirror the standards of the stream buffer policy (see *a.* and *b.* below) and to eliminate ambiguity.

For the purposes of cohesive review within this memorandum, wetland policies are collectively discussed below.

PROPOSED EDITS:

- Due to the extent of revisions proposed, the clean text of proposed policies is provided below. For tracked changes (strikeout/underline) to the Planning Commission Approved LCPA text: see Compilation (Exhibit 2, Policy C-BIO-14, p. 13; Policy C-BIO-19, p. 15; and Policy C-BIO-20, pp. 15-16)

C-BIO-14 Wetlands

Preserve and maintain wetlands in the Coastal Zone as productive wildlife habitats and water filtering and storage areas, and protect wetlands against significant disruption of habitat values. Prohibit grazing or other agricultural uses in a wetland, except in those areas used for such activities prior to April 1, 1981, the date on which Marin's LCP was first certified. Where there is evidence that a wetland emerged primarily from agricultural activities (e.g., livestock management, tire ruts, row cropping) and does not provide habitat for any species that meet the definition of ESHA, such wetland may be used and maintained for agricultural purposes and shall not be subject to the buffer requirements of C-BIO-19 (Wetland Buffers).

C-BIO-19 Wetland Buffers

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

C-BIO-20 Wetland Buffer Adjustments

1. 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 complies with C-BIO-20.2 in order to protect the wetland and the continuance of its habitat; or*
 - c. *It is demonstrated that 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. The buffer shall not be adjusted to a distance of less than 50 feet in width from the edge of the wetland.*

BOARD ACTION REQUIRED:

C-BIO-1, -24, and -25: Streams

DISCUSSION:

The LCP Amendments specify that streams and riparian vegetation are considered ESHA and thus are subject to the corresponding ESHA protections (Policy C-BIO-1.2: "...ESHA is addressed in three general categories: wetlands, streams and riparian areas, and terrestrial ESHAs".) Policies that apply to all ESHA are provided in C-BIO-2 (ESHA Protection) and C-BIO-3 (ESHA Buffers). Specific guidance for streams and riparian vegetation is provided in Policy C-BIO-24 (Coastal Streams and Riparian Vegetation).

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10/2/12 Staff Report: The report for the Board's October 2 hearing divided discussion of streams and riparian vegetation into several sub-sections, summarized below.

- Streams: The staff report for 10/2/12 recommended revisions which would achieve the following purposes:
 - Carry forward "stream" definition of LCP Units I and II (i.e., perennial and intermittent streams which are mapped by the USGS) (Development Code § 22.130.30).
 - *For analysis: see 10/2/12 Staff Report, Att. 2, p. 44*
 - Incorporate Coastal Commission staff recommendation into C-BIO-24.1 which limits necessary water supply projects to instances in which "no other less environmentally damaging method of water supply is feasible" (C-BIO-24).
 - *For analysis: see 10/2/12 Staff Report, Att. 4, pp. 18-19*
- Buffers: The following revisions were proposed for Policy C-BIO-25:
 - Establish an "absolute minimum" buffer of 50 feet from the outer edge of stream/riparian ESHA, in accordance with Coastal Commission staff guidance.
 - *For analysis: see 10/2/12 Staff Report, Att. 2, p. 48*
 - Provide more specific direction regarding consideration of site assessment findings and siting/design measures, in evaluating requests for buffer adjustments.
 - *For analysis: see 10/2/12 Staff Report, Att. 2, p. 48*

Ephemeral Streams: The PC-approved stream definition includes any ephemeral stream that "(a) supports riparian vegetation for a length of 100 feet or more; or (b) support special-status species or another type of ESHA, regardless of the extent of riparian vegetation." As described in the October 2 memorandum, this language overlaps with the concept of "terrestrial ESHA" provided in C-BIO-1.1. Staff recommends that the current stream definition be carried over from the LCP Units I and II as described in the October 2 memorandum (i.e., perennial or intermittent streams mapped by the USGS). While the habitat of rare and endangered species is implicit in the definition of ESHA, further clarification should be provided in Policy C-BIO-1.1 to state that terrestrial ESHA includes riparian vegetation that is not otherwise associated with a perennial or intermittent stream.

Uses in Streams and Riparian Areas: Uses in streams and areas of riparian vegetation are governed by C-BIO-2 and C-BIO-24. Policy C-BIO-24 adapts existing language from LCP Unit II and should be streamlined for clarity. A review of the stream policies also revealed that the policy language for access and utility crossings was inappropriately placed in C-BIO-25 (Stream and Riparian Buffer Adjustments), particularly given the proposed "absolute minimum" natural buffer area of 50 feet. Thus, proposed revisions to Policy C-BIO-24 would incorporate access and utility crossings in a more concise and slightly reorganized fashion, although no new policy concepts are introduced. Consistent

with Coastal Act § 30240(a), only resource-dependent uses are allowed within areas of riparian vegetation, while certain stream alterations are allowed pursuant to Coastal Act § 30236. A minor change reflected in this policy that will also be carried forward throughout the LCP Amendments is incorporation of the Department of Fish and Game's new name (Department of Fish and Wildlife), which will take effect on January 1, 2013.

During the hearing on October 2, the Board inquired about whether ongoing efforts by the State Water Resources Control Board to document surface water diversions would result in impacts to the LCP. Marin farmers and ranchers are among the first in the state to receive notice about Division of Water Rights' efforts; however, based upon further research, consultation with the U.C. Cooperative Extension and a review of the Statement of Water Diversion and Use, it appears that this effort is largely focused on documentation of existing improvements and will not involve new permitting efforts. Further, most affected improvements likely pre-date the Coastal Act and thus would be exempt from retroactive enforcement by the Coastal Commission.

Stream and Riparian Vegetation Buffers: Policy C-BIO-24.3 establishes the stream buffer requirement. For clarity and consistency with the structure of wetland policies, an alternative is provided to separate C-BIO-24.3 into a new policy that also encompasses the provisions of C-BIO-25.5 (allowing uses within the buffer that are also allowed within the ESHA). The stream and riparian vegetation buffer policy would largely carry forward existing policies in LCP Units I and II, and provide the following requirements:

- Minimum 100 feet in width, maintained in a natural condition (the buffer is the wider of the following on both sides of the stream: (a) 50 feet landward from edge of riparian vegetation; or (b) 100 feet landward from top of stream bank)
- No development other than that which is authorized within the stream/riparian ESHA (Policy C-BIO-2, C-BIO-24) or through a buffer adjustment (Policy C-BIO-25) (this text relocated/adapted from C-BIO-25.5 as presented in *10/2/12 Staff Report, Att. 5, p. 6*)

Stream and Riparian Vegetation Buffer Adjustments: Policy C-BIO-25 sets forth the circumstances, process and criteria for considering buffer adjustments. As previously noted, the Coastal Act standard for buffers is focused on impacts to the ESHA (i.e., will not significantly degrade the resource and will be compatible with continuation of the habitat). The LCP Amendments would

- Incorporate the standard of 30240(b) by providing that development shall not significantly degrade the resource and will be compatible with continuation of the habitat;
- Maintain a standard buffer of 100 feet, but establish an absolute minimum buffer of 50 feet (consistent with Coastal Commission staff direction)

Since the Board's hearing on October 2, Policy C-BIO-25 has been revised to streamline policy language and reorganize as previously described. For the purposes of cohesive review within this memorandum, streams and riparian vegetation are comprehensively discussed below.

PROPOSED EDIT:

- Due to the extent of revisions proposed, clean text of proposed policies is provided in this section of Exhibit 1. For tracked changes (strikeout/underline) to the Planning Commission Approved LCPA text: see Compilation (Exhibit 2, Policy C-BIO-1, p. 9; Policy C-BIO-24, p. 18; and Policy C-BIO-25, p. 19)

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

For the purposes of this Chapter, ESHA is addressed in three general categories: wetlands, streams and riparian 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.

C-BIO-24 Coastal Streams and Riparian Vegetation

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

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

2. Access and Utility Crossings. Access and utility crossings shall be accomplished by clear span bridging, unless other methods are determined to be less disruptive to the stream and/or riparian ESHA. Wherever possible, shared bridges or other crossings shall be used to provide access and utilities to groups of lots covered by this policy. Bridge abutments shall be located outside stream channels and designed to minimize disturbance of riparian vegetation.
3. Conditions. Minimize the alteration of streams allowed for the purposes listed in (1) and (2) above in order to protect streamwater quality and the volume and rate of streamflow. Require all developments to incorporate the best mitigation measures feasible, including erosion and runoff control measures, and re-vegetation of disturbed areas with native species. Minimize disturbance of riparian vegetation and require re-vegetation.

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

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

C-BIO-25 Stream and Riparian Buffer Adjustments

1. 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 complies with C-BIO-25.2 in order to protect the

stream and riparian ESHA and the continuance of its habitat; or

- c.** *It is demonstrated that 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. The buffer shall not be adjusted to a distance of less than 50 feet in width from the edge of the stream/riparian ESHA.*

“Allowed Development in ESHA” – Safe Harbor for Expansion of ESHA
Att. 4, Item VII

BOARD ACTION REQUIRED:

C-BIO-5.b “Safe Harbor” for Expansion of ESHA

DISCUSSION: The 10/2/12 staff report recommended revisions to Program C-BIO-5.b to establish “safe harbor” policies that would encourage expansion of ESHA (e.g., voluntary fencing or habitat restoration program) without a corresponding increase in the width of the buffer. The Board did not offer any comments with respect to this program.

PROPOSED EDIT:

- Clean text of the proposed program is provided below. For tracked changes (strikeout/underline) to the Planning Commission Approved LCPA text: see Compilation (Exhibit 2, Program C-BIO-5.b, p. 12)
- For analysis: see 10-2-12 Staff Report, Att. 4, p. 24

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

Prescriptive Rights

BOARD ACTION REQUIRED:

C-BIO-7 and -9: Prescriptive Rights

DISCUSSION: The Board concurred with Marin County Farm Bureau concerns that the reference to "potential prescriptive rights" contained in Policy C-BIO-9 might be misinterpreted as prohibiting property owners from protecting their land from illegal trespassing. This language was carried forward from existing LCP policies. However, the focus of C-BIO-9 is the protection of landforms and habitat, not public access to the sea. Therefore, the phrase "potential prescriptive rights" is unnecessary and can be deleted as shown below without changing the intent of the policy. It should be noted that prescriptive rights of public access to the sea are addressed in Policy C-PA-7 (Protection of Prescriptive Rights) and in accompanying provisions of the Development Code.

- For tracked changes: see Compilation (Exhibit 2, Program C-BIO-7, p. 12 and C-BIO-9, p. 12)

PROPOSED EDIT:

C-BIO-9 Stinson Beach Dune and Beach Areas

Prohibit development that would adversely impact the natural sand dune formation, 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.

DISCUSSION: In a related issue, Policy C-BIO-7 (Coastal Dunes) contains a reference to "fencing" that might be construed as contradictory to Policy C-BIO-9. Whereas Policy C-BIO-9 prohibits the erection of fences in order to preserve natural dunes at Stinson Beach, Policy C-BIO-7 supports the use of fencing as a mechanism to prevent overuse of dunes in general. Therefore, staff recommends deletion of the reference to "fencing" in Policy C-BIO-7, while maintaining the other measures to prevent overuse in dunes.

PROPOSED EDIT:

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 to areas capable of sustaining increased use, ~~and fencing~~....

EXHIBIT #2
Local Coastal Program Amendments (LCPA)

COMPILATION OF REVISIONS:
Alternative Text for Board Consideration

The following is an excerpt from the February 2012 PC-Approved LCPA, containing the Agriculture and Biological Resources chapters of the Land Use Plan along with related Development Code sections. Also included is the new Land Use Plan chapter addressing Policies for the Interpretation of the LCP.

This document compiles all the Alternative text and other changes being proposed by staff for Board consideration in Exhibit #1. Changes newly proposed since the 10-2-12 Board hearing are shown in **highlighted double-strike-out and underline** format. Changes previously proposed in the 10-2-12 Staff Report are shown without highlight in single ~~strike-out~~ and underline format.

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,~~ 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.

(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.

(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 C-APZ.***~~ (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.

(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.
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 productions 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.

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.~~

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:

- 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.
- 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~~ 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.
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. For the purposes of this Chapter, ESHA is addressed in 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); and 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.
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.~~

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*)

2. Control public access to ESHAs, including the timing, intensity, and location of such access, to protect against significant disruption of habitat values. Public access trails are considered resource dependent uses. minimize disturbance to wildlife. (relocated text from PC-Approved C-BIO-1.2)
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)*
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.~~
 - e. ~~Disruption of the habitat values of the resources is avoided.~~
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.

(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.
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 ~~disrupt~~ degrade the habitat. ~~Generally,~~ Buffers for terrestrial ESHA shall be 50 feet, a ~~distance 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.

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).

(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.

(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.

(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 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.

(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.

(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, 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.

(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.

(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.

(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 ~~(i.e., grazing was established~~ prior to April 1, 1981, the date on which Marin's ~~first~~ 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.
- ~~4.~~ 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).

(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.

(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.~~

(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.

(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.

(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 undertaken in the least environmentally damaging manner. An adjustment 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 complies with Policy C-BIO-20.2 in order to protect the wetland and the continuance of its habitat; 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 1. The County determines that the applicant has demonstrated that a 100-foot buffer is unnecessary to protect the resource because any significant disruption of the habitat values of the resource is avoided by the project and specific proposed protective measures are incorporated into the project. A wetland buffer may be adjusted to a distance of not less than 50 feet if such reduction is supported by the findings of a site assessment which demonstrates that the adjusted buffer, in combination with incorporated siting, and design or other mitigation measures, will prevent impacts which would that significantly degrade the wetland those areas, and will be compatible with the continuance of the wetland ESHA. The buffer shall not be adjusted to a distance of less than 50 feet in width from the edge of the wetland those habitat areas. 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
- c. 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 (e.g., detention pond or urban drain). However, facilities that drain a naturally occurring wetland shall be subject to the provisions of C-BIO-20.1.~~

~~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. An adjustment may be granted for the wetland buffer if the use within the buffer will. The project conforms to one of the purposes identified in policy C-BIO-14 or C-BIO-15 C-BIO-16.~~

(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.

(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 of~~ 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.

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

- ~~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.~~

MOVE BUFFER REQUIREMENT TO SEPARATE POLICY:

~~3. Stream Buffers.~~

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 either 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).

- ~~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.~~

(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 and Riparian Buffer Adjustments and Exceptions. ~~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~~

1. 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 complies with Policy C-BIO-25.2 in order to protect the stream and riparian ESHA and the continuance of its habitat; or
 - c. It is demonstrated that 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 1. The County determines that the applicant has demonstrated that a 100/50 foot stream buffer (see Policy C-BIO-24.3) is unnecessary to protect the resource because any significant disruption of the habitat value of the resource is avoided by the project and specific proposed protective measures are incorporated into the project. A stream buffer may be adjusted to a distance of not less than 50 feet from the top of the stream bank if such a reduction is supported by the findings of a site assessment which demonstrates that the adjusted buffer, in combination with incorporated siting, and design, or other mitigation measures, will prevent impacts which would that significantly degrade the stream or riparian vegetation those areas, and will be compatible with the continuance of the stream/riparian ESHA those habitat areas. The buffer shall not be adjusted to a distance of less than 50 feet in width from the edge of the stream/riparian ESHA. 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
 - e. 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.~~

(Move to Policy C-BIO-24.2): ~~3. Exceptions Adjustments to the stream buffer policy may be granted for 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, 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 abutments columns shall be located outside stream channels where feasible and designed to minimize disturbance of riparian vegetation.~~

~~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. An adjustment to the stream buffer may be granted if the use within the buffer will The project conforms to one of the purposes and standards identified in policy C-BIO-24(1).~~

(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~~

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

[New policy, not in Unit I or II]

Please Note: The following text is proposed as a new chapter for the LCPA Land Use Plan to be inserted at the beginning of the document, following the Introduction, before the Agriculture and Natural Systems section.

Policies for Interpretation of the Land Use Plan (INT)

(proposed new chapter for the LCPA Land Use Plan)

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.

**LCPA Development Code Amendments
SUGGESTED MODIFICATIONS**

CHAPTER 22.32 – STANDARDS FOR SPECIFIC LAND USES

Sections:

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Chapter 22.32 Table of Contents

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

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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.

- 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.

- 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.
- 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:
 - 1. A detailed description of the intergenerational home or homes.
 - 2. Assurance that any change in use will be in conformance with applicable zoning, building and other ordinances and noting that all appropriate permits must be issued and completed prior to any change in use.
 - 3. Assurance that the intergenerational housing will not be subdivided or sold separately from the primary agricultural legal lot.
- 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:

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.~~

* * *

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.
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.

* * *

Chapter 22.62 – Coastal Zoning Districts and Allowable Land Uses

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22.62.060 – Coastal Agricultural and Resource-Related Districts

...

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 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~~, 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 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)

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)

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

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CHAPTER 22.64 – COASTAL ZONE DEVELOPMENT AND RESOURCE MANAGEMENT STANDARDS

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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.
- 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).
- 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.
- 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.

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, micorrhizal 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.

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.

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

- 1. Environmentally Sensitive Habitat Areas (ESHAs).** The resource values of ESHAs shall be protected by limiting development per Land Use Policies C-BIO-1, C-BIO-2, and C-BIO-3.
- 2. Habitats of rare or endangered species and unique plant communities.** Habitats of rare and endangered species and unique plant communities shall be protected by limiting development in those areas and providing adequate buffers surrounding those areas per Land Use Plan Policy C-BIO-3.
- 3. Ecological restoration.** Encourage restoration of degraded ESHAs per Land Use Plan Policy C-BIO-5.
- 4. Invasive plants.** Where feasible, require the removal of non-native, invasive plant species, 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.
- 5. Coastal dunes and beaches.** Coastal dunes and beaches shall be preserved by limiting development in those areas per Land Use Plan Policies C-BIO-7, C-BIO-8, and C-BIO-9.
- 6. Roosting and nesting habitat.** Roosting and nesting habitat and the grassy shorebird feeding areas adjacent to Bolinas Lagoon shall be protected by limiting development per Land Use Plan Policies C-BIO-10, C-BIO-11, and C-BIO-12.

7. **Biological productivity.** The biological productivity and quality of coastal waters, coastal streams, coastal wetlands, coastal estuaries and coastal lakes shall be maintained, and where feasible, enhanced per Land Use Plan Policy C-BIO-13.
8. **Coastal wetlands.** Coastal wetlands shall be preserved and maintained as productive wildlife habitats, water filtering and storage areas, and, as appropriate, recreational open space, by limiting diking, dredging, and draining per Land Use Plan Policies C-BIO-14, C-BIO-15, C-BIO-16, and C-BIO-17, disposing of ~~spoils~~ dredged materials per Land Use Plan Policy C-BIO-18 and mitigating wetland impacts per Land Use Plan Policy C-BIO-21.
9. **Coastal wetland buffers.** Adequate buffers shall be maintained surrounding coastal wetlands per Land Use Policy C-BIO-19 unless an adjustment ~~or exception~~ to standard buffers is granted per Land Use Plan Policy C-BIO-20.
10. **Marine resources.** Marine resources shall be maintained, enhanced, and where feasible, restored and special protection shall be provided to areas and species of special biological or economic significance per Land Use Plan Policy C-BIO-23.
11. **Coastal streams, riparian vegetation, and buffers.** Alterations to coastal streams and riparian vegetation shall be limited 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.

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.~~

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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.
- 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.

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, construction of agricultural processing facilities 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). Ongoing Agricultural operations including cultivation, crop and animal management and grazing are not considered to be a significant alteration of land forms development.

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;
 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.

* * *

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.

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 requires to make the determination.

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.

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, 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.

Definitions, Development Code Section 22.130.030

* * *

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)

* * *

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)

* * *

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 special-status species of plants and animals (i.e., 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)

* * *

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)~~

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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)