



MEMORANDUM

TO: Marin County Planning Commission

FROM: Kathleen Kilgariff, Planner

DATE: April 6, 2023

RE: Item 1 on the April 10, 2023 Planning Commission Agenda - Local Coastal Program Amendments and Rezone

This memo serves to provide an update related to Item 1 on the Planning Commission's April 10, 2023. Specifically, this memo provides public comments received to date, and discusses a procedural request due to a discrepancy in the materials provided for this item.

Procedural Request

The proposed amendments that the Planning Commission is being asked to consider were not shown in Track Changes when the Staff Report and Attachments were published. As a result, the Planning Commissioners, and members of the public, are not able to clearly see the proposed changes to the Local Coastal Program.

As a result, in conformance with the Brown Act, staff asks that the item be opened and continued to the Planning Commission's next regularly scheduled meeting on April 24, 2023.

In the meantime, staff will provide new materials that include the proposed changes to the Local Coastal Program Land Use Plan and Implementation Plan. Changes will be shown with **red strikethroughs and underlines** where necessary within the text.

Public Comments

Staff received a communication from the Environmental Action Committee of West Marin (EAC) on March 6, 2022. While the majority of their comments were minor and where applicable, incorporated into the proposed edits, several comments relate to the overall Code changes that separate the Implementation Plan from the Development Code. While this is addressed in the Staff Report, please be reminded that it was agreed upon by both County and Coastal Commission staffs to separate Coastal standards from Title 22. Throughout the previous Local Coastal Program Amendment process (from 2008 to 2021), the County retained the original section numbering to facilitate the ability of interested parties to track changes throughout the LCP process. Both County and Coastal Commission staff acknowledged the numbering will be amended to reflect the separate status of the LCP.

Further comments are related to Variances and how Variance applications are processed in the Coastal Zone. No changes to the processing of Variances are suggested as part of the proposed Local Coastal Program Amendments. This is because the proposed changes to the Local Coastal

Program are non-substantive in nature and do not change how the current Local Coastal Program is implemented.

If substantive changes are required in the future, staff will bring forward a new Local Coastal Program Amendment to cover those and additional public outreach and engagement will be conducted.

Please note, this communication was meant to be included as Attachment 7 to the Planning Commission Staff Report.

Attachments

1. Communication from Environmental Action Committee of West Marin, March 7, 2023



ESTABLISHED 1971

March 6, 2023

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Re. Marin County Local Coastal Program Technical Edits

Dear Ms. Kilgariff,

Since 2008, EAC has been actively involved in Marin County's Local Coastal Program (LCP) amendment process, participating in both County and California Coastal Commission public hearings. Our mission is to protect and sustain the unique lands, waters, and biodiversity of West Marin. Thank you for this opportunity to provide comments on the LCP technical edits. We present the following comments, questions, and editorial points in order of the Implementation Plan (IP).

1. We noticed the language is changing from Development Code to Coastal Zoning Code. Are you segmenting the code sections? Also, regarding this, see page (p.) 5 of the IP, Section 20.01.010 – Purpose of Title 20 "Chapters 20.60 through 20.70 inclusive, along with portions of Chapters 20.32 (Standards for Specific Land Uses) and 20.130 (Coastal Zoning Code Definitions) that apply in the coastal zone together constitute the LCP's Implementation Plan (Coastal Zoning Code)." As a clarifying point, this title implies that the entire Title 20 is the LCP IP. However, why does the Purpose Section 20.01.010 suggest that there are sections, perhaps numbered 20.02.xxx - 20.32.yyy, etc. in Title 20, that do not apply to property in the Coastal Zone?
2. As a potentially related question, we noticed the proposed change from Interim Code Title 22i to Title 20. It appears that this creates some conflicts with an existing code section that deals with subdivisions. This could be confusing, as some of the numbering is the same. For instance, a technical edit to the IP changes the numbering of Section 22.32.020 Accessory Retail Uses to 20.32.020 Accessory Retail Uses. However, there is already a Section 20.32.020 Recommendations (for Action on Tentative Map Where Final Map Required). Similarly, there is already a Section 20.32.040, but one of the renumbered sections of the IP has the same number.
3. On p. 23, regarding 20.32.095.B. – Homeless Shelters "... if it complies with the standards of Section 22.32.095.C, below." This should be 20.32.095.

4. On p. 26, regarding 20.32.115 – Determination of Non-Agricultural. Both references to “Chapter 22.62” should be “Chapter 20.62.”
5. On p. 27, regarding 20.32.130 – Residential Accessory Uses and Structures, “Chapter 22.62” should be “Chapter 20.62.”
6. Also related to this section, under Detached structures: Height: Section 20.32.130 A.3.a: “...A residential accessory structure shall not exceed a height of 15 feet.... Further, where floor area is developed beneath a detached parking structure in conformance with Section 220.32.130.A.3.b below, the maximum height of the detached structure shall be 30 feet.” Pertaining to this excerpt, our question is - Was this drafted for a variance-type decision for an application outside the Coastal Zone where setbacks limit development of parking structures? It does not seem like this should apply in the Coastal Zone.
7. On pp. 111-112, under Section 20.65.040 – C-APZ Zoning District Standards, 20.65.040.C.1.e "...meet the standards, specified in Section 22.32.024." This should be 20.32.024.
8. There is a reference to "redevelopment" on p. 129 of the IP, but there is no definition. Presumptively, this will be handled with the environmental hazards update.
9. Also, regarding Definitions, “Farm tract (coastal)” is redundant following “Farm tract.”
10. Regarding Coastal Zone variances, we suggest some revisions to these sections:
 - A Variance is a Discretionary Permit (20.130).
 - A Variance must be Publicly Noticed (20.70.150.A.4), but the Public Notice section preamble does not mention variances (20.70.050).
 - The Determination of the processing category for an application does not discuss a variance (20.70.030).
 - Our question is, when can a variance decision be administrative? That is not specified. Granting a variance requires determining that other property owners in the vicinity and zoning district enjoy privileges that would be denied to the applicant by application of the Coastal Zoning code. This argues for a public hearing for (nearly) every variance application.
11. As a very minor edit on p. 129, check the spacing on 20.68.070C. It appears that “to” may have an extra space.

Thank you for your work on this and for the consideration of our comments. We also look forward to continued engagement on the incomplete environmental hazards’ sections.

Sincerely,



Ashley Eagle-Gibbs, Esq.
Legal and Policy Director
Environmental Action Committee of West Marin

cc: Honora Montano, Coastal Planner, California Coastal Commission