

Marin County Planning Commission
Regular Meeting
January 9, 2012

ROLL CALL The meeting was called to order by Chair Peter Theran at 10:07 a.m.

Present at Roll Call: Peter Theran; Katherine Crecelius; Don Dickenson; Randy Greenberg; Wade Holland.

Absent at Roll Call: Mark Ginalski; Joan Lubamersky.

Agenda

1. INITIAL TRANSACTIONS

a. Incorporate Staff Reports into Minutes

M/s Wade Holland - Don Dickenson to incorporate the staff reports into the minutes.

Vote: Motion carried 5-0

AYES: Peter Theran; Katherine Crecelius; Don Dickenson; Randy Greenberg; Wade Holland.

ABSENT: Mark Ginalski; Joan Lubamersky.

b. Minutes

M/s Wade Holland - Randy Greenberg to approve the minutes of the special meeting of December 1, 2011, as submitted.

Vote: Motion carried 4-0-1

AYES: Peter Theran; Don Dickenson; Randy Greenberg; Wade Holland.

ABSTAIN: Katherine Crecelius.

ABSENT: Mark Ginalski; Joan Lubamersky.

M/s Wade Holland - Don Dickenson to approve the minutes of the regular meeting of December 12, 2011, as corrected.

Vote: Motion carried 5-0

AYES: Peter Theran; Katherine Crecelius; Don Dickenson; Randy Greenberg; Wade Holland.

ABSENT: Mark Ginalski; Joan Lubamersky.

M/s Wade Holland - Don Dickenson to approve the minutes of the special meeting of December 14, 2011, as submitted.

Vote: Motion carried 5-0

AYES: Peter Theran; Katherine Crecelius; Don Dickenson; Randy Greenberg; Wade Holland.

ABSENT: Mark Ginalski; Joan Lubamersky.

M/s Wade Holland - Randy Greenberg to approve the minutes of the special meeting of December 19, 2011, as corrected.

Vote: Motion carried 5-0

AYES: Peter Theran; Katherine Crecelius; Don Dickenson; Randy Greenberg; Wade Holland.

ABSENT: Mark Ginalski; Joan Lubamersky.

c. Communications

CDA Assistant Director Tom Lai answered a question from Commissioner Dickenson regarding a public comment letter received via the County Disability Access service on the Golden Gate Baptist Theological Seminary project.

2. DIRECTOR'S REPORT

a. Preliminary Agenda Discussion Items, Field Trips

[Draft Hearing Schedule](#)

Mr. Lai provided a brief update on the Golden Gate Baptist Theological Seminary and Bay Creek projects and answered questions from the Commission.

3. OPEN TIME FOR PUBLIC EXPRESSION (LIMITED TO THREE MINUTES PER SPEAKER)

Bridger Mitchell expressed concern that the Planning Commission's recommendation on Development Code amendments pertaining to the public's right to appeal Agency determinations of the Development Code had not been properly represented by staff to the Board of Supervisors. He submitted a letter elaborating on this concern on behalf of the following groups: Environmental Action Committee of West Marin, Inverness Association, Sierra Club Marin Group, Marin Conservation League, Marin Surfrider Foundation, West Marin/Sonoma Coastal Advocates, and Brenda and Richard Kohn; and Susan Stompe, Marin Conservation League.

Susan Stompe, representing Marin Conservation League, spoke in support of Mr. Mitchell's comments.

The Commission asked staff to agendize a discussion of this matter for the January 23, 2012, hearing. The Commission also asked staff to agendize a future discussion of how divergent Commission and staff recommendations are conveyed to the Board of Supervisors.

4. MATTESON APPEAL OF THE INCOMPLETENESS FINDING FOR THE PHILLIPS LOT LINE ADJUSTMENT

[Staff Report](#)

Chair Theran opened the public hearing.

CDA staff present: Assistant Director Tom Lai, Planner Scott Greeley. DPW staff present: Michel Jeremias.

Mr. Greeley presented the staff report and recommended that the Commission review the administrative record, conduct a public hearing, and adopt the recommended Resolution denying the Matteson appeal and upholding the Notice of Project Status determination which found the Phillips Lot Line Adjustment to be incomplete.

David Bremer and Doug Matteson, representing the applicant, commented on the bases of appeal and asserted that the applicant had met all requirements, including submittal of a recently-recorded Parcel Map, but that under the California Subdivision Map Act, Planning may not require the applicant to submit tentative or final maps.

The Commission discussed the merits of the appeal and noted that, while the recorded Parcel Map was submitted after the appeal was filed, nearly all requirements appear to have been or were ready to be met. In addition, the actions of staff in requiring submission of the recorded map and accurate site plan/exhibit were appropriate. Four of the Commissioners were in favor of denying the appeal. Commissioner Dickenson stated that he thought the appellants were technically correct, and he would vote to grant the appeal.

M/s Wade Holland - Katherine Crecelius to approve the resolution denying the Matteson appeal and sustaining the determination of incompleteness of the Phillips Lot Line Adjustment.

Vote: Motion carried 4-1

AYES: Peter Theran; Katherine Crecelius; Randy Greenberg; Wade Holland.

NOES: Don Dickenson.

ABSENT: Mark Ginalski; Joan Lubamersky.

Chair Theran noted that this decision may be appealed to the Board of Supervisors by 4:00 p.m. on January 24, 2012.

5. LOCAL COASTAL PROGRAM UPDATE

[Staff Report](#)

Chair Theran opened the public hearing.

CDA staff present were: Director Brian Crawford, Assistant Director Tom Lai, Principal Planner Jack Liebster, Senior Planner Kristin Drumm, Senior Planner Christine Gimmler, Assistant Planner Alisa Stevenson. Planning Consultant Steve Scholl was also present.

The Commission reviewed the updated Draft Tentative Decision Table from the December 1, 2011, meeting. Staff answered questions from the Commission and noted corrections, which will be reflected in a revised Tentative Decision Table.

Mr. Liebster briefed the Commission on the issues for discussion.

The following organization representatives and members of the public commented and offered suggestions regarding revisions to the Land Use Plan policies and Development Code Amendments; postponing final determination on WECS until documents in the staff report are clarified; fundamental concerns with agricultural policy amendments; additional materials needed to complete the LCP amendments; Muir Beach Community Plan; restricting the use of residential housing for short term vacation rentals in Stinson Beach; Master Plan requirements for non-agricultural development in the C-APZ zone; intergenerational housing and development

standards in the APZ zoning district; and responsibility for monitoring and maintaining trails and pathways in Inverness:

West Marin/Sonoma Coastal Advocates: Beverly Childs McIntosh, Sidney Baskin, Helen Kozoriz

California Coastal Commission: Ruby Pap

Environmental Action Committee of West Marin: Amy Trainer, Bridger Mitchell

Inverness Association: Bridger Mitchell, Julie Monson

Community Marin: Nona Dennis

Marin Surfrider Foundation: Scott Tye

Richard Kohn, Terry Bryant, Terence Carroll

The Commission recessed for lunch at 12:05 p.m. and reconvened at 1:05 p.m.

The Commission reviewed and discussed the carryover issues in Attachments 1 and 2 of the Staff Report pertaining to Development Code Structure and Process, including Chapters 22.68 and 22.70; Agriculture; Community Development; Community Specific Policies; Energy; Chapter 22.66 - Coastal Zone Community Standards; and Proposed Development Code Amendments: WECS.

The Commission recessed briefly at 3:04 p.m. and reconvened at 3:10 p.m. with five members present as indicated.

The comments and direction provided by the Commission to staff will be reflected in an updated Tentative Decision Table.

M/s Wade Holland - Don Dickenson to continue the hearing on the LCP Amendment to January 23, 2012.

Vote: Motion carried 5-0

AYES: Peter Theran; Katherine Crecelius; Don Dickenson; Randy Greenberg; Wade Holland.

ABSENT: Mark Ginalski; Joan Lubamersky.

M/s Katherine Crecelius - Don Dickenson to adjourn.

Vote: Motion carried 5-0

AYES: Peter Theran; Katherine Crecelius; Don Dickenson; Randy Greenberg; Wade Holland.

ABSENT: Mark Ginalski; Joan Lubamersky.

Chair Theran adjourned the meeting at 4:18 p.m.

The next meeting of the Planning Commission is scheduled on January 23, 2012.

Webcast Timestamps

00:30 - Matteson Appeal

01:15 - Local Coastal Program Amendments

01:34 - Public Comment

02:21 - Questions

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Attachment 1 of Staff Report

02:25 - Development Code Structure and Process

02:50 - Natural Systems and Agriculture

03:30 - Built Environment and Socioeconomic Elements

04:04 - Chapter 22.66 - Coastal Zone Community Standard

04:17 - WECS, Attachment 2 of Staff Report

Planning Commission Decision Table – FINAL
January 9, 2012
LCP Hearing on Carryover Issues

APPROVED by Planning Commission: January 23, 2012

The items in **highlighted strike-out and underline** format below are responses to changes requested by the Planning Commission to the working draft of the revised LCP Amendments at the January 9, 2012 hearing. Other ~~strike-outs~~ and underlines indicate changes proposed in the January 9, 2012 staff report and approved by the PC.

I. DEVELOPMENT CODE STRUCTURE AND PROCESS

CHAPTER 22.68 – Coastal Permit Requirements

Section 22.68.040- Categorically Excluded Projects

The Planning Commission approved staff's recommendation to Section 22.68.040 as follows:

B. The Director shall maintain and regularly transmit to the Coastal Commission a list and summary of projects determined to be categorically excluded from the requirements of this Chapter for a Coastal Permit. The list and summary shall be available for public inspection and shall include the applicant's name, project description and location, and the date of the Director's determination **for each project.**

Section 22.68.060 – Non-Exempt Projects

The Planning Commission approved staff's recommendation to Section 22.68.060 as follows:

Section 22.68.060 – Non-Exempt Projects

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

...

K. Repair and maintenance activities. Repair and maintenance activities as follows:

1. Any method of repair or maintenance of a seawall revetment (other than ordinary maintenance of the Seadrift Revetment as provided by Section 22.68.050.B), bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:

(a) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;

(b) The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;

(c) The replacement of 20 percent or more of the materials of an existing structure with materials of a different kind: or

(d) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams.

2. Any method of routine maintenance dredging that involves:

(a) The dredging of 100,000 cubic yards or more within a twelve (12) month period;

(b) (a) The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, on any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams; or

(c) (b) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.

3. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that includes:

(a) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials; or

(b) The presence, whether temporary or permanent, of mechanized equipment or construction materials.

Section 22.68.050 – Exempt Projects

The Planning Commission approved staff's recommendation to Section 22.68.050 as follows:

Section 22.68.050 – Exempt Projects

...

B. Repair and maintenance. Repair and maintenance activities that do not result in the addition to or enlargement or expansion of the object of repair or maintenance. No coastal permit shall be required for ordinary maintenance of the Seadrift Revetment, which is defined to include removal from the beach of any rocks or other material which become dislodged from the revetment or moved seaward from the identified footprint, replacement of such materials on the revetment, minor placement of sand over the revetment from a source other than the Bolinas Sandspit Beach, planting of dune grass on the revetment, and similar activities.

Unless destroyed by a disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not considered solely repair and maintenance, but instead constitutes a replacement structure.

...

Section 22.68.090 – Consolidated Coastal Permit

The Planning Commission approved staff's recommendation to Section 22.68.090 as follows:

Consolidated County-Coastal Commission Coastal Permit. If a proposed development requires a two separate Coastal Permits, one from both the County and one from the Coastal Commission, a consolidated Coastal Permit application may be considered by the Coastal Commission according to the following procedure:

A. The Director, with agreement by the applicant, may request the Coastal Commission through its executive director to process a consolidated Coastal Permit. The standard of review for a consolidated Coastal Permit application shall follow Chapter 3 of the Coastal Act (commencing with Public Resources Code Section 30200), with the Local Coastal

Program used as guidance. The application fee for a consolidated Coastal Permit shall be determined by reference to the Coastal Commission's permit fee schedule.

- B. Prior to making a request for a consolidated Coastal Permit, the Director shall first determine that public participation would not be substantially impaired by that review process. ~~The Director may require public notice that is reasonably determined necessary to allow public review and comment on the proposed consolidated Coastal Permit.~~

CHAPTER 22.70 – Coastal Permit Administration

Section 22.70.030.B.5 – Coastal Permit Filing, Initial Processing

The Planning Commission approved staff's recommendation for **Section 22.70.030.B.5** as shown below.

Section 22.70.030.B.5 – Coastal Permit Filing, Initial Processing

...

5. **Public hearing waiver.** A public hearing that would otherwise be required for a minor development shall be waived if both the following occur:
- a. Notice as provided in Section 22.70.050 – Public Notice that a public hearing shall be held upon request by any person is provided **to all persons** ~~who would otherwise be required to be notified of a public hearing as well as any other persons known to be interested in receiving notice,~~ and
 - b. No written request for a public hearing is received within 15 working days from the date of sending the notice.

In addition to the requirements of Section 22.70.050 – Public Notice, the notice shall include a statement that the hearing will be cancelled if no person submits a written request for a public hearing as provided above, and a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the County of Marin on a coastal permit application.

For purposes of this Section, "minor development" means a development that the ~~County~~Director determines satisfies all of the following requirements:

- ~~a.~~ (1) Is consistent with the certified Local Coastal Program,
 - ~~b.~~ 2) Requires no discretionary approvals other than a Coastal Permit, and
 - (3) Has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.
- e. Notwithstanding the waiver of a public hearing, any written comments submitted regarding a coastal permit application shall be made part of the permit application record.

II. NATURAL SYSTEMS AND AGRICULTURE

AGRICULTURE (AG)

Program C-AG-2.b Develop Implementation Measures for the C-APZ

As discussed at the 1/9/12 Planning Commission hearing, the programs that have already been completed and implemented in the Draft Development Code will be deleted from the adopted version of the Land Use Plan. Program C-AG-2.b is implemented by Section 22.62.060, including Tables 5-1-a through 5-1-e, and will therefore be deleted from the Land Use Plan. The Commission further requested that staff reorganize Programs C-AG-2.a, -2.c, -2.d, and -2.f and relocate them to each follow the appropriate policy. This reorganization will be done in the revised draft and is not shown here.

~~**Program C-AG-2.b Develop Implementation Measures for the C-APZ**~~
[entire program deleted from the Draft Land Use Plan]

Program C-AG-2.c Agricultural Worker Housing on Agricultural Lands

As explained under Program C-AG-2.b above, Program C-AG-2.c will also be deleted from the adopted version of the Land Use Plan since it has been completed and implemented by Development Code Section 22.32.028.

~~**Program C-AG-2.c Agricultural Worker Housing on Agricultural Lands.**~~
[entire program deleted from the Draft Land Use Plan]

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

The Planning Commission approved staff's recommendation for Program C-AG-2.d and to add "written" as follows:

Program C-AG-2.d Amnesty Program for Unpermitted and Legal Non-Conforming Agricultural Worker Units. Support the establishment of an amnesty program for unpermitted and legal non-conforming agricultural worker units in order to increase the legal agricultural worker housing stock and guarantee the health and safety of agricultural worker 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 local coastal program requirements related to the type, location and intensity of land uses as well as applicable resource protection policies.

(PC app. 1/24/11)

[New program, not in Unit I or II]

CORRECTION (1/23/12): The Commission clarified that item "5.a" of this Program cannot be deleted and shall be carried forward in the Land Use Plan.

Program C-AG-2.e Establish Criteria for On-site Agricultural Sales and Processing.

As explained under Program C-AG-2.b above, Program C-AG-2.e will also be deleted from the adopted version of the Land Use Plan, since it has been completed and implemented by Development Code Sections 22.32.026 and 22.32.027. The change requested by the Planning Commission at the 1/9/12 hearing to maintain agricultural processing as a Principal Permitted Use had already been corrected in Section 22.32.026.

~~**Program C-AG-2.e Establish Criteria for On-site Agricultural Sales and Processing.**~~

[entire program deleted from the Draft Land Use Plan]

CORRECTION (1/23/12): Staff revised the recommendation for item A.2 regarding groundwater resources as proposed in the 1/23/12 errata to the staff report and shown below. During review of this Decision Table at the 1/23/12 Planning Commission hearing, the Commission requested additional new changes to Policy C-AG-7, which are reflected in the 1/23/12 Decision Table.

Policy C-AG-7 Master Plan for Non-Agricultural Development of Agricultural Production Zone (C-APZ) Lands

The Planning Commission approved staff's recommendation for Policy C-AG-7, except for a possible addition to Section A.2, where a member of the Planning Commission suggested considering adding language to require that water diversions or use not adversely impact groundwater levels or existing wells on other properties.

As promised, staff has had preliminary contacts within the time available with County Counsel and Environmental Health Services, as well as reviewing the Coastal Act itself, and has compiled the following information.

1. The County Counsel confirms that regulation of groundwater resources and surface water rights in California is indeed complex, that the County has not been significantly involved in groundwater management to date, and that engaging more substantively in issues related to groundwater could involve major commitments of time and resources.
2. EHS made similar observations. They are not currently charged with the responsibility for managing the groundwater system, such as evaluating the effects of approving new wells on groundwater levels in wells on neighboring properties.
3. The Coastal Act's policies on water resources focus on biological productivity and quality (30231) and habitat values (30240). They do not appear to directly address groundwater water rights impacts between adjacent property owners. Nevertheless, the Coastal Commission 2010 staff guidance for LCP Implementation Plans does suggest that Coastal Permit filing requirements include [2 0.144 .070.D] 5:

h. assessment of the individual and cumulative impacts of the proposed development on the quantity and quality of the groundwater table and local aquifer, specifically addressing nitrates, TDS, and toxic chemicals;

i. assessment of the proposed development's individual and cumulative impact on the aquifer's safe long-term yield level, saltwater intrusion, and long-term maintenance of local coastal-priority agricultural water supplies:

Staff will seek additional information prior to the consideration of this proposed change.

C-AG-7 Master Plan for Non-Agricultural Development Standards for the Agricultural Production Zone (C-APZ) Lands. ~~Prior to approval of non-agricultural development, including a land division, in the Coastal Agricultural Production Zone, require submittal of a Master Plan or other appropriate development applications showing how the development would be consistent with the LCP. Approve a proposed Master Plan or development application and determine the density of permitted residential units only upon making all of the following findings and incorporating the conditions listed below. No Master Plan shall be required for:~~

- ~~1. Agricultural activities that are accessory and incidental to, in support of, and compatible with agricultural use;~~
- ~~2. Development that is Categorically Excluded;~~
- ~~3. Up to two intergenerational homes; or~~
- ~~4. A single family dwelling on a parcel having no residual development potential for additional~~

~~dwellings, other than agricultural worker housing.~~

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 Local Coastal Program, and in particular the policies of the Natural Systems and Agriculture Element of the LUP.

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

All of the following development standards apply:

- ~~1. The development will~~ Permitted development shall protect and enhance continued agricultural use, and contribute to agricultural viability.
- ~~2. 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.~~
- ~~3. 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.~~
- ~~4.~~ 4. 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 but not limited to Tomales Bay, either individually or cumulatively.
- ~~services (fire protection, police protection, schools, etc.) to serve the proposed development.~~
- ~~36. The proposed development will~~ 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.

B. Development Standards for Non-Agricultural Uses:

In addition to the standards of Section A of 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.

Required Conditions:

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, significant 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 homeowner's 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 multiple residential projects, other than 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 are not further subdivided.
4. Proposed development shall only be approved after making the following findings:
 - a-2. 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.
 - b3. 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.
 - c4. 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. 1/24/11; rev 10/10/11)

[Adapted from Unit II Ag Policies 4 and 5, p. 98-99]

NOTE: During review of this Decision Table at the 1/23/12 Planning Commission hearing, the Commission requested additional new changes to Section 22.65.040, which are reflected in the 1/23/12 Decision Table.

Section 22.65.040 C-APZ Zoning District Standards

The Planning Commission approved staff's recommendation for Section 22.65.040 and requested clarifying that "management plans" are "Agricultural Production and Stewardship Plans".

22.65.040 - C-APZ Zoning District Standards

A. Purpose. This Section provides additional development standards for the C-APZ zoning district that are to preserve productive lands for agricultural use, and ensure that development is accessory and incidental to, in support of, and compatible with agricultural uses.

B. Applicability. The requirements of this Section apply to proposed development in addition to the standards established by Section 22.65.030 (Planned District General Development Standards) and Chapter 22.64 (Coastal Zone Development and Resource Management Standards), and all other applicable provisions of this Development Code.

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

~~4. **Location of development.** Development shall be designed and sited as provided in section 22.65.030.D (Building location).~~

1. Standards for agricultural uses:

- a. Permitted development shall protect and enhance continued agricultural use, and contribute to agricultural viability.
- 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 or significantly reduce freshwater inflows to water bodies including but not limited to Tomales Bay, either individually or cumulatively. ~~The proposed development will~~ 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.
- c. ~~The proposed development will~~ 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.

2. Standards for Non-Agricultural Uses:

Non-agricultural uses, including division of agricultural lands or construction of two or more dwelling units, (excluding agricultural worker or intergenerational housing) shall meet the requirements of section 22.65.040.C.1 above and the following additional requirements:

- a. **Conservation easements.** Consistent with State and federal laws, the approval of non-agricultural uses, a subdivision, or construction of two or more dwelling units, excluding agricultural worker and intergenerational housing, shall include measures for the long-term preservation of lands proposed or required to remain undeveloped. Preservation shall be accomplished by permanent conservation easements or other encumbrances acceptable to the County. Only agricultural uses shall be allowed under these encumbrances. In addition, the County shall require the execution of a covenant prohibiting further subdivision of parcels created in compliance with this Section and Article VI (Subdivisions), so that ~~they are~~ each is retained as a single unit.
- b. **Agricultural Production and Stewardship Management Plans (APSP) and organization.** The creation of a homeowner's association or other organization and/or the submission of an Agricultural Production and Stewardship Plan (APSP) may be required to provide for the proper use and management of agricultural lands, and their availability for lease, and/or for the maintenance of community roads or mutual water systems. The Director may waive the requirement for a management plan APSP for a project involving an existing commercial agricultural production operation or an existing commercial agricultural property.
 - (1) The purpose of an Agricultural Production and Stewardship Plan 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 Agricultural Production and Stewardship Plan 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 Agricultural Production and Stewardship Plan 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 Agricultural Production and Stewardship Plan shall include conditions ensuring the proper, long-term implementation of the plan.

(2) The requirement for an Agricultural Production and Stewardship Plan shall not apply to agricultural worker housing or to permitted intergenerational homes and 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 on the property of agricultural commodities for commercial purposes. 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.

(3) Projects subject to the potential requirement of preparing an Agricultural Production and Stewardship Plan 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 Agricultural Production and Stewardship Plan program.

c. **Required findings.** Review and approval of land use permits for non-agricultural development including land divisions and determinations of allowed density in the C-APZ zoning district, shall be subject to the following findings, in addition to others required by this Article:

(1) The proposed development is necessary because the agricultural use of the property is no longer 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 the hardship and enhance agricultural operations on the remainder of the property.

(2) The proposed development will not conflict with the continuation or initiation of agricultural uses on the portion of the property that is not proposed for development, on adjacent parcels, or parcels within one mile of the perimeter of the proposed development.

(3) Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development without extending urban services.

d. **Transfer of development rights (TDR).** Proposed development within the C-APZ district may use the TDR provisions of Chapter 22.34 (Transfer of Development Rights).

Second Units on C-APZ Parcels

On a 4-1 vote, the Planning Commission affirmed staff's recommendation to continue to prohibit second units in the C-APZ zoning district.

Section 22.32.023 – Agricultural Homestays (Coastal)

The Planning Commission approved staff’s recommendation to Section 22.32.023 as follows:

B. Land Use Requirements. An Agricultural Homestay:

.....

- 2. Provides overnight transient accommodations.
- 3. Shall offer ~~lodging and~~ meals only to overnight guests ~~only~~ as an incidental, and not as the primary, function of the establishment, and

.....

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. ~~single-family residential characteristics.~~

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.

Section 22.32.025 – Farmhouse (Coastal)

The Planning Commission approved staff’s recommendation to delete the following sentence from Section 22.32.025 as follows:

~~The approval of a farmhouse shall ensure that lands designated for agricultural use are not de facto converted to residential use per Land Use Policy C-AG-9.~~

Section 22.32.026 – Agricultural Processing Uses

The Planning Commission approved staff’s recommendation to Section 22.32.026 as follows:

A. Limitations on use:

....

- 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 ~~on a scheduled or regular basis~~ more than 24 times per year.

Section 22.32.027 – Agricultural Retail Sales and Facilities (Coastal)

The Planning Commission approved staff’s recommendation to Section 22.32.027 as follows:

...
B. Design Review for a structure used as a sales facility.

- 1. Design Review shall be required for any structure proposed to be used for retail sales ~~that is within 300 feet of a street or a separate-ownership property line,~~ except as provided below.
- 2a.** A sales structure that is within 300 feet of a street or a separate-ownership property line, does not exceed 500 ~~250~~ square feet in size, and does not exceed 15 feet in height shall be exempt from Design Review or eligible for Minor Design Review if either (1) the structure has no foundation (and is exempt from building permit), or (2) at least three of the structure’s walls are each no more than 50% solid (including

sides with no walls).

- 3b.** An ~~on-site sales facility structure~~ that does not exceed 500 square feet in size, does not exceed 15 feet in height, and is ~~no~~ more than 300 feet from any street or separate-ownership property line ~~(and is not within a processing facility)~~ shall be exempt from Design Review.

Section 22.32.028 – Agricultural Worker Housing (Coastal)

The Planning Commission approved staff's recommendation to Section 22.32.028 with modifications as follows:

- A. Permitted use, zoning districts.** Agricultural worker housing providing accommodations consisting of no more than 36 beds in group living quarters or 12 units or spaces for agricultural workers and their households shall be considered a principal permitted agricultural land use and shall not be included in the calculation of residential density in the following zoning districts: A2, A3 to A60, ARP, C-ARP, C-APZ, C-RA , **and C-OA**, ~~and O-A~~ **and are allowed by Articles II (Zoning Districts and Allowable Land Uses) and V (Coastal Zones – Permit Requirements and Development Standards).**

Section 22.32.115 – Non-Agricultural Uses (Coastal)

The Planning Commission approved staff's recommendation to Section 22.32.115 as follows:

22.32.115 – Determination of Non-Agricultural Uses

This Section applies only in those instances where Table 2-1 or Table 5-1 expressly refers to this Section. The purpose of applying the following standards is to determine whether a specific non-agricultural land use is accessory and incidental to the primary use of land for agricultural production. The intent of these provisions is to ensure that non-agricultural uses do not become the primary use of agricultural land to the detriment of agricultural production...

Table 5-1-d – Allowed Uses in Coastal Agricultural District

The Planning Commission approved staff's recommendation to Table 5-1-d, which added "kennels and animal boarding" in the C-APZ district as a Conditional Use (U).

General Comment from 22.32 related to Definitions

The Planning Commission approved staff's recommendation to not place all defined terms in italic bold font in the Development Code.

III. BUILT ENVIRONMENT AND SOCIOECONOMIC ELEMENTS

COMMUNITY DEVELOPMENT (CD)

C-CD-22 Agricultural Land Use Categories

The Planning Commission approved of staff's recommendation for Policy C-CD-22 with modifications as follows:

C-CD-22 Agricultural Land Use Categories. Establish agriculture land use categories to preserve and protect a variety of agricultural uses, and to enable potential for agricultural production and diversification. Historically, 60 acres has been the minimum parcel size for most agricultural lands in the county. Various policies regarding agricultural productivity, water availability, effects on water quality, and other factors govern the subdivision of such lands, along with the intensities described below. The effect is that subdivisions of agricultural lands are rare. The zoning designations listed are examples of consistent zoning and are not the only possible consistent zoning designations. The following Agricultural land use categories are established:

Agriculture 1 (~~coastal~~) (C-AG1). This land use category is established ~~for agricultural uses, including nonresidential structures necessary for agricultural operations at a floor area ratio (FAR) of .01 to .09, and housing with a density of one dwelling unit per 31 to 60 acres.~~ to preserve agricultural lands that are suitable for land intensive or land extensive agricultural productivity, that contain soils capable of supporting production agriculture, or that are currently zoned C-APZ. The principal use of these lands shall be agricultural, and any development shall be accessory and incidental to, in support of, and compatible with agricultural production. A minimum of 60 acres is required for each dwelling unit. A maximum density of one dwelling unit per 60 acres is permitted, and all development shall be consistent with applicable policies of the Coastal Land Use Plan.

Consistent Zoning: C-APZ-60
 C-ARP-31 to C-ARP-60

Agriculture 2 (~~coastal~~) (C-AG2). This land use category is established for agricultural uses ~~including nonresidential structures necessary for agricultural operations at a floor area ratio (FAR) of .01 to .09, and housing with a density of one dwelling unit per 10 to 30 acres.~~ on lands adjacent to residential areas, and at the edges of Agricultural Production Zones in the Coastal Zone that have potential for agricultural production and can 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.

Consistent Zoning: C-ARP-10 to C-ARP-30

Agriculture 3 (~~coastal~~) (C-AG3). This land use category ~~shall be provided is established for agricultural uses, including nonresidential structures necessary for agricultural operations at a floor area ratio (FAR) of .01 to .09, and housing with a density of one dwelling unit per 1 to 9 acres.~~ for residential use within the context of small-scale agricultural and agriculturally-related uses, subject to the specific development standards of the Coastal Land Use Plan.

Consistent Zoning: C-ARP-1 to C-ARP-9

(PC app. 9/19/11, 10/26/09)

[Adapted from CWP Policy CD-8.5 pg. 3-35]

C-CD-23 Residential Land Use Categories and Densities

The Planning Commission approved of staff's recommendation to modify C-CD-23 and to modify the density range from 16 to 10 units per acre as follows:

Low to Medium Density Residential

The following low to medium density residential land use categories (from 5 to 1016 units per acre) are established where moderate density single-family and multi-family residential development can be accommodated in areas that are accessible to a range of urban services near major streets, transit services, and neighborhood shopping facilities.

Land Use Category	Density Range	FAR	Consistent Zoning
Multi-Family 3 (C-MF3)	5 to 10 du/ac	.1 to .3	C-RMP-5 to C-RMP-10
Multi-Family 3.5 (C-MF3.5)	5 to 16 du/ac	.1 to .3	C-RMP-5 to C-RMP-16

(PC app. 7/29/10)

[Adapted from CWP Policy CD-8.6 pg. 3-35 to 3-39]

C-SB-2 Limited Access in Sadrift.

The Planning Commission approved staff's recommended changes to C-SB-2 as follows:

C-SB-2 Limited Access in Sadrift. Allow only limited public access across the ~~unsubdivided open space area generally located north of Dipsea Road and adjacent to Bolinas Lagoon in the Sadrift subdivision lands fronting Bolinas Lagoon~~ to protect wildlife habitat subject to the Deed of an Open Space and Limited Pedestrian Easement and Declaration of Restrictions as recorded March 26, 1986 as Instrument No. 86-15531. This area includes parcels 195-070-35 and 36; 195-080-29; 195-090-44; 195-320-62 and 78; and 195-340-71, 72, and 73.

(PC app. 7/29/10)

[Concept adapted from Unit I New Development Policy 33, "Lagoon Access," p. 80]

C-SB-3 Density and Location of Development in Sadrift

The Planning Commission approved staff's recommended changes to C-SB-3 as follows:

C-SB-3 Density and Location of Development in Sadrift. ~~For purposes of this policy, the Sadrift subdivision is divided into five sub-areas as follows:~~ Development of the approximately 327 lots within the Sadrift subdivision shall be allowed consistent with the provisions of the July 12, 1983 Memorandum of Understanding for the settlement of the litigation between Steven Wisenbaker and the William Kent Estate Company, and the County of Marin, and consistent with the terms of the March 16, 1994, Settlement Agreement in the litigation titled Kelly et al. v. California Coastal Commission, Marin County Superior Court Case No. 152998 between the Sadrift Association and the County of Marin. Minimum lot sizes shall be as shown on the final subdivision maps approved by Marin County, as modified by the referenced settlement agreements.

~~Area 1: This area includes lots fronting on the Pacific Ocean and generally south of Seadrift Road. Those properties in Area 1 present the least potential for adverse impacts by new development activities because of their size, location relative to lagoon waters, and build out potential. Development on existing lots in Area 1 may proceed (consistent with other LCP policies) based upon a 15,000 square foot minimum lot size. Lot consolidation (of adjacent lots under like ownership) shall occur only by side by side lot consolidation, if necessary to achieve the minimum lot size.~~

~~Area 2: This area includes lots generally between Seadrift Lagoon and Seadrift Road (total lots: 94, Separation of Areas 2 and 4 occurs at lot lines between AP#195-320-19 and 195-320-57 and AP #195-051-24 and 195-051-23, 29). Those properties in Area 2 are smaller lots with a large amount of buildout potential adjacent to the interior Seadrift Lagoon. Development on existing lots in Area 2 may proceed (consistent with other LCP policies) based upon a 30,000 square foot minimum lot size. Contiguous (side-by-side) lots under like ownership shall be consolidated to achieve the minimum parcels size requirement.~~

~~Area 3: This area includes lots fronting on Bolinas Lagoon and generally west of Dipsea Road. Development on existing lots in Area 3 may proceed (consistent with other LCP policies) based upon a 30,000 square foot minimum lot size. Contiguous (side-by-side) lots under like ownership shall be consolidated to achieve the minimum parcels size requirement.~~

~~Area 4: This area includes lots fronting on Dipsea Road. Area 4 is further divided into Areas 4A and 4B with the division occurring between parcels 195-070-07 and 195-070-08. Development on existing lots in Area 4 may proceed (consistent with other LCP policies) based upon a 112,500 square foot (2.5 acre) minimum lot size. Contiguous properties under like ownership shall be merged to achieve the minimum parcels size requirement.~~

~~Based upon a Memorandum of Understanding for the settlement of litigation between the County, Steven Wisenbaker and the William Kent Estate Company, dated July 12, 1983, the portions of area four (4) listed below shall be subject to the following policies:~~

- ~~1. All lots listed herein shall be subject to master plan approval pursuant to Chapter 22.45. Any master plan approval shall include all lots listed herein and be subject to all policies contained herein;~~
- ~~2. Lot 201 of Seadrift Lagoon Subdivision No. 2 shall be designated as a non-building site in the master plan. This lot may be combined with an adjacent developed lot or developable lot; however, the resultant combined lot shall be used as a single lot.~~
- ~~3. Lots 95 through 97 of Seadrift Lagoon Subdivision No. 1 and lots 98 through 102 of Seadrift Lagoon No. 2 shall be consolidated into a maximum of five (5) lots in the master plan. These lots shall be rezoned to C-RSPS-3.5;~~
- ~~4. The master plan and tentative map approvals shall provide that the front property line for lots abutting Dipsea Road shall not be considered property lines for the purposes of establishing setbacks for leach field areas, so that the private road right-of-way or portions thereof may be used for leach field areas for lots abutting that private roadway. Additionally, the owners of such lots shall retain the right to cross the private right of way to the unsubdivided parcel for the installation of leach field areas. This may only be done in a manner consistent with Marin County Code 18.06 and "Septic Tank and Leach Field Waivers" dated November 27, 1978, Marin County Department of Public Works. Use of the private road right-of-way and/or the unsubdivided parcel for leach field installation shall only occur if: a) each lot or user has a discrete sewage disposal system; b) each lot or user has a recorded easement over the necessary portion of the unsubdivided parcel; c) no leach fields are located within 100 feet of the mean high tide line of the Bolinas Lagoon; and d) after an~~

~~opportunity for review and comment has been provided to the Stinson Beach County Water Board.~~

~~Area 5: That unsubdivided land consisting of 26 acres adjacent to the Bolinas Lagoon and the entrance gate of Seadrift.~~

- ~~1. All improvements shall be located a minimum of 100 feet from the waters of Bolinas Lagoon;~~
- ~~2. Development shall be limited to one story in height, not to exceed 18 feet;~~
- ~~3. Development shall be designed to provide future vehicle and pedestrian access over the site as follows:~~
 - ~~a. Pedestrian easements to provide limited public access to and along the Bolinas Lagoon edge.~~

(PC app. 07/29/10)

[Adapted from Unit I, New Development Policy 36, p. 81 and Policy 38, p. 85]

Section 22.65.070 – C-RSPS Zoning District Standards (Seadrift Subdivision)

The Planning Commission approved staff's recommended changes to Section 22.65.070 as follows:

22.65.070 – C-RSPS Zoning District Standards (Seadrift Subdivision)

A. Purpose. This Section provides development standards for the C-RSPS Zoning District Standards (Seadrift Subdivision) that provide for site planning with careful consideration to sensitive site characteristics.

B. Applicability. Proposed development and new land uses shall comply with the provisions of Section 22.65.030 (Planned District General Development Standards) and Chapter 22.64 (Coastal Zone Development and Resource Management Standards).

C. Ocean setbacks. On those lots fronting the ocean and south of Seadrift Road, no development shall be located seaward of the building setback line as shown on the map of Seadrift Subdivision Number One, RM, Bk. 6, Pg. 92 and Seadrift Subdivision Number Two, RM, Bk. 9, Pg. 62, and as described in the subdivision's covenants, conditions and restrictions in effect as of June 19, 1981 (Ordinance 2637).

D. Height limit. Development on all lots in Seadrift shall be limited to a maximum height as follows:

- ~~1. On lots within the In Seadrift Subdivision, which are located in a special flood hazard zone (V-zone) as mapped by Subdivisions One (with the exception of lots 01 through 03) and Two, and lots 01 and 02 of Parcel 1 in the Lands of Sidney J. Hendrick, finished floor elevation shall not exceed 19.14 feet above NAVD (North American Vertical Datum), except on those portions of lots or parcels where the Federal Emergency Management Agency (FEMA), the maximum allowable building height shall be 15 feet as measured from requires minimum finished floor elevations to be set at a higher level. In the areas of lots or parcels where FEMA requires minimum finished floor elevations to be set at levels higher than 19.14 feet above NAVD, minimum floor elevations shall comply with FEMA requirements. The height of any structure shall not exceed 34.14 feet above NAVD, provided that in those portions of lots and parcels where FEMA requires minimum finished floor elevations to be set at a level higher than 19.14 feet above NAVD, the height of any structure shall not be greater than 13.5 15 feet above the level of the minimum finished floor elevation allowed required by the special flood hazard zone designation FEMA.~~
- ~~2. On lots within In Seadrift Lagoon Subdivisions One and Two, and Seadrift Subdivision Three which are not within a mapped FEMA special flood hazard zone, the Norman's Seadrift~~

~~Subdivision, and Lots 01 through 03 in Seadrift Subdivision One, finished floor elevation shall not exceed 114.14 feet above the National Geodetic Vertical Datum (NGVD) NAVD. Total height of a structure shall not exceed 26.14 feet NGVD 29.14 feet above NAVD.~~

- ~~3. On lots within Seadrift Subdivisions One and Two which are not within a mapped FEMA special flood hazard zone, finished floor elevation shall not exceed 16.14 NGVD. Total height of structure shall not exceed 31.14 NGVD.~~

~~**E. Public access requirements.** The following public access requirements apply in addition to the coastal access provisions in Section 22.64.180 (Public Coastal Access). In the event of any conflict between the following provisions and the requirements of Chapter 22.64 (Coastal Resource Management Standards), the following shall control within the Seadrift Subdivision.~~

- ~~1. Access easements required. Coastal development project approval on ocean front parcels Public access within the Seadrift subdivision and on the ocean beach adjacent to Seadrift shall comply with the provisions of the March 16, 1994 Settlement Agreement between the Seadrift Association and the County of Marin, et al., in Kelly et al. v. California Coastal Commission, Marin County Superior Court Case No. 152998, and as set forth in that certain Deed of Open Space and Limited Pedestrian Easement and Declarations of Restrictions dated November 1, 1985, and recorded March 26, 1986, Marin County Recorder's Office shall be conditioned upon an offer of an access easement, or other encumbrances acceptable to the County, as follows. The imposition of encumbrances shall be consistent with Federal and State law.~~

~~(a) Location of easement. An offer to the County or other public agency on behalf of the public of a nonexclusive easement for access to and use of the beach. The easement shall include the beach area between the ocean and a line 25 feet seaward of the toe of the Seadrift sand dunes; provided that the easement shall not extend any closer than 100 feet to the rear of the building setback line on each ocean front lot. In addition to the above easement, the grant shall also include provision for a floating five foot wide lateral access easement to be located landward of any wave run-up, where run-up extends further inland than the above easement. In no case, however, shall the five foot floating easement extend inland beyond the rear building setback line or the toe of the dunes, whichever point is the furthest seaward.~~

~~(b) Use of easement area. Use of the easement area shall be limited to low intensity recreational activities, including strolling, sunbathing, birding, picnicking, fishing and general viewing. Structures, camping, group sports, fires, private recreational vehicles, and horses shall be prohibited in the easement areas. Use of the five foot lateral access easement as described above shall be limited to strolling and viewing purposes only.~~

~~2. Emergency egress. Landowners possessing an interest in Seadrift Road, including the right to preclude the public from using the roads, shall record an agreement allowing the public emergency egress during periods of high water or high tides when the beach is impassable. The County shall provide signing for the emergency egress along the Seadrift Spit, at the end of Walla Vista and the north end of the spit. In applications for new development along the beach fronting the subdivision, the County will ensure emergency vertical egress from the beach to Seadrift Road at the northwest end of the beach and other locations found appropriate.~~

Section 22.66.040 – Stinson Beach Community Standards

The Planning Commission approved staff's recommended changes to Section 22.66.040 as follows:

22.66.040 – Stinson Beach Community Standards

A. Community character. Maintain the existing character of residential and small-scale commercial development in Stinson Beach (Land Use Policy C-SB-1).

B. Limited access in Seadrift. Allow only limited public access across the ~~unsubdivided Seadrift subdivision lands~~ fronting Bolinas Lagoon open space area generally located north of Dipsea Road and adjacent to Bolinas Lagoon in the Seadrift subdivision to protect wildlife habitat, subject to the Deed of an Open Space and Limited Pedestrian Easement and Declaration of Restrictions as recorded March 26, 1986 as Instrument No. 86-15531. This area includes parcels 195-070-35 and 36; 195-080-29; 195-090-44; 195-320-62 and 78; and 195-340-71, 72, and 73. (Land Use Policy C-SB-2).

ENERGY (EN)

Energy Chapter Introduction (Land Use Plan)

The Planning Commission approved staff's recommended changes to the LUP Energy chapter introduction, with further revisions as follows:

Draft LCP Energy Introduction:

Energy plays a critical role in the function of society. The way it is acquired, produced and utilized can have significant impacts on the health of the economy and community. ~~With mounting concerns about the continued commitment to environmental quality and resource conservation, and mounting concerns about the effects of greenhouse gas emissions on climate change,~~ it is necessary to create a sustainable framework within which energy can serve its purpose with minimal impact.

Most of the energy used in Marin County is imported from outside California, and is drawn from non-renewable resources such as nuclear power, natural gas and coal. The necessity for a shift to renewable energy has grown considerably in recent years. Through increased public awareness of climate change and related energy issues and the establishment of energy-related legislation, the transition to renewable resources is slowly becoming a reality. In addition to shifting energy consumption to more renewable resources, the use of energy continues to become more efficient. Energy efficiency significantly reduces the rate at which limited non-renewable resources are consumed, which consequently reduces negative health and environmental impacts.

The Local Coastal Program (LCP) encourages improved energy efficiency through the implementation of specific energy standards for development, by providing public information about ways to increase energy efficiency, and by offering incentives for practicing energy efficiency and conservation in homes and businesses. The shift to renewable energy resources and the development of energy production facilities are also encouraged as deemed appropriate. While the LCP strongly supports renewable energy, it requires that any production facilities ~~are~~ be carefully designed and sited to avoid and minimize potential impacts.

While the continued support of renewable energy has become a priority both locally and nationwide, there remains a concern that energy production facilities may pose a significant threat to important coastal resources. Nowhere is this more evident than in the Coastal Zone of Marin County, where the abundance of sensitive natural resources creates a delicate setting susceptible to ~~for~~ the potentially harmful effects that some facilities may impose. For instance, facilities such as power plants and those related to oil and gas drilling are known to inflict serious adverse impacts upon the surrounding environment, and therefore may not be appropriate for Marin's Coastal Zone. However, it is recognized that certain renewable energy facilities (example: solar and wind energy conversion) may be necessary for the ~~continued health and economic well-being of the surrounding community~~ greater public benefit, and thus may be allowed where appropriate.

The Coastal Act stresses the protection of coastal resources, although acknowledges that some development of energy facilities and resources may be necessary ~~for the social and economic well-being of the community.~~ Sections 30260 through 30265 of the Act contain provisions for several types of energy development, including oil and gas development, thermal power plants, liquefied natural gas, and other related facilities. Renewable energy facilities such as those ~~necessary~~ for the use of solar and wind resources are not directly addressed, however any proposals for facilities of this nature would be subject to Sections 30250 through 30254, which address development in the Coastal Zone.

The Marin County Coastal Zone currently has no major energy or industrial facilities, although the possibility of two types of major energy development has been considered in the past: power plants and offshore oil development. The Coastal Act requires the Coastal Commission to designate specific areas of the Coastal Zone that are not suitable for siting new power plants or related

facilities. In September 1978, the State Commission adopted “negative designations” for the Coastal Zone (subsequently revised in 1982). In Marin County, non-federal lands generally north of Olema were negatively designated (or excluded) for potential power plant development except those agricultural lands located north of Walker Creek, despite a recommendation from the Regional Commission supporting total exclusion of all lands north of Olema. ~~Thus~~ This would have left these agricultural areas ~~are still~~ potentially open for ~~potential possible~~ development of power plants ~~as far as the State Coastal commission is concerned.~~ However, Current LCP Unit II Policy 7, however, has been in place since the original adoption of the LCP was certified by the CCC as part of the County’s LCP to prohibit “major energy or industrial development” while allowing the development of alternative energy sources such as solar and wind energy.” If not amended, this prohibition will remain in effect, and will continue to be the standard of review for proposals not only for the County, but also for the Coastal Commission on appeal as well.

In addition, the Gulf of the Farallones and Monterey Bay National Marine Sanctuaries have been established to border the Marin County Coastal Zone since the original LCP certification. The Sanctuaries enforce federal regulations that protect the bay and ocean waters adjacent to Marin. These federal regulations (CFR, Title 15, §922) prohibit harmful activities such as “exploring for, developing, or producing oil, gas, or minerals...” within the Sanctuaries to protect the sensitive resources found therein. Given the prohibition of such activities offshore, at least to the seaward extent of the Sanctuaries, it is less highly unlikely there would be any proposals for related on-shore facilities in the Coastal Zone in the near-foreseeable future.

NOTE: During review of this Decision Table at the 1/23/12 Planning Commission hearing, the Commission approved staff’s recommendation as shown.

Policy C-EN-4

The Planning Commission requested that staff revise Policy C-EN-4 to include language similar to that proposed by Community Marin in their 1/9/12 letter. Staff recommends the following changes for approval:

Policy C-EN-4 Renewable Energy Resource Priority. Utilize local renewable energy resources and shift imported energy to renewable resources where technically and financially feasible at a scale that is consistent with the sensitivity of coastal resources. Preserve opportunities for development of renewable energy resources only where impacts to people, natural resources and views would be avoided or minimized. Support appropriate renewable energy technologies, including solar and wind conversion, wave and tidal energy, and biogas production through thoughtfully streamlined planning and ~~development rules, codes,~~ processing, rules and other incentives that are all consistent with Policy C-EN-5.

Program C-EN-4.a

The Planning Commission requested that Program C-EN-4.a be modified as shown:

Program C-EN-4.a Study Renewable Energy Resource Potential. Work with other agencies to study the potential for renewable energy generation in the Coastal Zone, and identify areas with the most adequate capacity for renewable resources such as wind and solar power. Within areas identified, specify sites suitable for locating renewable energy facilities with the least possible impact, and evaluate mechanisms for protecting such sites for appropriate renewable energy facilities.

Policy C-EN-6

The Planning Commission approved Policy C-EN-6 as proposed in the 1/9/12 staff report and shown below:

Policy C-EN-6 - Energy and Industrial Development. The ~~Unit II~~ Coastal Zone contains unique natural resources and recreational opportunities of nationwide significance. Because of these

priceless resources and the very significant adverse impacts which would result if major energy or industrial development were to occur, such development, both on and offshore, is not appropriate and shall not be permitted. The development of alternative energy sources such as solar or wind energy shall be exempted from this policy.

[Continued from LCP Unit II New Development and Land Use Policy 7, p. 209]

NOTE: *During review of this Decision Table at the 1/23/12 Planning Commission hearing, the Commission approved staff's recommendation as shown.*

Section 22.32.161 – Solar Energy Systems (coastal)

The Planning Commission approved staff's recommended changes to Section 22.32.161, except for part B.iii regarding appropriate ground coverage for free-standing solar energy systems. The PC asked staff to revise Section 22.32.161 to incorporate a less restrictive standard that would not limit an applicant's ability to connect to the grid. Staff recommends the following changes for approval (highlighted):

22.32.161 - Solar Energy Systems (coastal).

~~As defined in Section 22.130.030, a solar energy system consists of a photovoltaic solar collector or other photovoltaic solar energy device that has a primary purpose of providing for the collection and distribution of solar energy for the generation of alternating current rated peak electricity or for heating a solar hot water tank.~~ The installation of any solar energy system, as defined in Section 22.130.030, must be sited and designed to be consistent with all required setbacks and height limits of the specific zoning district in which it is proposed. **In addition, ground area coverage of the system shall have no significant impacts on environmental quality or wildlife habitats, and shall meet all other applicable policies and standards of the LCP.**

A. Roof-Mounted Solar Energy System:

- i. Allowed as a Principal Permitted Use in all coastal zoning districts.
- ii. Exempt from the Coastal Permit requirement, consistent with Section 22.68.050.
- iii. May exceed the required height limit of the zoning district in which the project is proposed by no more than two feet. If any part of the solar energy system structure exceeds the required height limit by greater than two feet, then a Use Permit may Design Review shall be required for approval.

B. Free-Standing Solar Energy System:

- i. Allowed as a ~~Principal~~ Permitted Use in all coastal zoning districts.
- ii. Exempt from the minimum setback requirements of the zoning district in which the project is proposed if the structure does not exceed a height of eighteen inches above grade at any point. ~~If any part of the structure exceeds a height of eighteen inches above grade, then a Use Permit may be required for approval.~~
- iii. **Ground area coverage of the system shall not exceed the maximum size required to adequately serve the needs of the permitted use(s) of the lot on which it is located. Exceptions to this standard may be approved by the Director for community-based uses located on adjacent parcels.**

[Adapted from Marin County Building Code Section 19.04.100, and Development Code Sections 22.20.060.E and 22.20.090.D, not in PRD]

NOTE: *During review of this Decision Table at the 1/23/12 Planning Commission hearing, the Commission requested additional new changes to Section 22.32.190, which are reflected in the 1/23/12 Decision Table.*

Section 22.32.190 – Wind Energy Conversion Systems (WECS) (coastal)

The Planning Commission approved proposed new Development Code Section 22.32.190 with modifications as shown:

22.32.190 – Wind Energy Conversion Systems (WECS) (coastal)

This Section establishes permit requirements for coastal planned district and coastal conventional district zones and standards for the development and operation of Wind Energy Conversion Systems (WECS) in

compliance with Marin County policies and State and Federal laws and allows and encourages the safe, effective, and efficient use of WECS in order to reduce consumption of ~~utility-supplied~~ electricity ~~from non-renewable sources~~.

A. Permit requirements. Small and Medium Wind Energy Conversion Systems (WECS) are allowed in all coastal zoning districts, subject to the following general requirements. Large WECS are prohibited in all coastal zoning districts.

1. Coastal Zoning Districts.

a. Small Roof-Mounted WECS.

- i. Allowed as a Principal Permitted Use in all coastal zoning districts;
- ii. Exempt from the Coastal Permit requirement, consistent with Section 22.68.050; and
- iii. Subject to development standards in Sections 22.32.190.B.1, ~~B.2~~, and B.4.

~~**b. Small Non-Grid-Tied Agricultural WECS.**~~

- ~~iv. Allowed as a Permitted Use in all coastal zoning districts; and~~
- ~~v. Subject to development standards in Section 22.32.190.B.2 and Section 22.32.190.B.4.~~

e.b. Small Freestanding WECS.

- vi. Allowed as a Permitted Use in all coastal zoning districts; and
- vii. Subject to development standards in Section 22.32.190.B.2 and Section 22.32.190.B.4.

d.c. Medium Freestanding WECS (coastal).

- viii. Allowed as a Permitted Use in all coastal zoning districts except the Coastal Scenic Corridor “-SC” Combining District;
- ix. Prohibited in the Coastal Scenic Corridor “-SC” Combining District; and
- x. Subject to development standards in Section 22.32.190.B.3 and Section 22.32.190.B.4.

e.d. Large Freestanding WECS (coastal).

- xi. Prohibited in all coastal zoning districts.

2. Summary of Permit Requirements. Small Roof-Mounted WECS shall require a Building Permit approval in all coastal zoning districts. ~~Small Non-Grid-Tied Agricultural WECS~~, Small Freestanding WECS, and Medium WECS (coastal) shall require a Coastal Permit ~~and Building Permit~~ approval in all coastal zoning districts.

3. Time limits. The approval for ~~a Small WECS or Medium~~ any WECS (coastal) shall be for an indefinite period, except that an approval shall lapse if ~~a Small or Medium~~ the WECS becomes inoperative or abandoned for a period of more than one year.

4. Applicability. In addition to the provisions of Section 22.32.190, all other applicable provisions of this Development Code shall apply to a new WECS (coastal) land use. In the event there is any conflict between the provisions of this section and any other provision of this Development code, the more restrictive provision shall apply.

5. Wind Testing Facilities. For the purpose of Section 22.32.190, wind testing facilities are those facilities or structures which have been temporarily installed to measure wind speed and directions ~~plus and to collect~~ other data relevant to siting WECS. Installations of temporary (up to one year) wind testing facilities shall be considered pursuant to Section 22.32.200.

B. Development standards.

1. Small WECS (Ministerial). A Building Permit for a Small Roof-Mounted WECS located on ~~all a~~

parcels pursuant to this Section shall be issued by the Agency Director upon submission of a Building Permit application containing the information specified in applicable sections of this Development Code and a determination by the Agency Director that the proposed use and development meets the development standards in Section 22.32.190.B.4 Table 3-10, Section 22.32.190.F, and Sections 22.32.190.G.1, G.2, G.5, G.6, G.7, and G.9.a. Before issuance of a building permit, the County shall record a notice of decision against the title of the property stipulating that the WECS must be dismantled and removed from the premises if it has been inoperative or abandoned for a period of more than one year.

2. **Small WECS (Discretionary).** Small WECS shall be subject to the development standards in Section 22.32.190.B.4, Table 3-10 and shall comply with the development standards and requirements contained in Section 22.32.190.C through 22.32.190.H.

3. **Medium WECS (coastal).** Medium WECS (coastal) shall be subject to the development standards in Section 22.32.190.B.4, Table 3-10 and shall comply with the development standards and requirements contained in Section 22.32.190.C through Section 22.32.190.H.

4. **Summary of Development Standards.**

**TABLE 3-10
WECS (Coastal) Development Standards**

	Small			Medium (coastal)	
	Roof-Mounted	Non-Grid-Tied Agricultural	Freestanding	Freestanding	
Total Height	≤10 feet (above roof line)	≤40 feet (above grade)	>40 – ≤100 feet (above grade) ¹	≤ 40 feet	>40 - ≤100 feet (above grade) ¹
Min. Height of Lowest Position of Blade Above Grade	Not Applicable	15 feet	15 feet	15 feet	15 feet
Max. Rotor Blade Radius (HAWT)/ Max. Rotor Blade Diameter (VAWT)	7.5 feet/5 feet	0.5 x tower height/5 feet	0.5 x tower height/5 feet	0.5 x tower height/5 feet	0.5 x tower height
Min. Setback from Tip of Blade to Property Line²	0.5 x total height	0.5 x total height	0.5 x total height	0.5 x total height	1 x total height
Max. Units/Parcel	1	1	1	1	2
Min. Unit Separation	Not Applicable	Not Applicable	Not Applicable	Not Applicable	1 x tower height
Min. Setback from Habitable Structures²	Not Applicable	1 x total height	1 x total height	1 x total height	1 x total height
Min. Setback from	Not Applicable	Not Applicable	Minimum of 300 feet	Not Applicable	Minimum of 300 feet

Prominent Ridgeline ²			horizontally or 100 feet vertically		horizontally or 100 feet vertically
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¹ In the Coastal, Scenic Corridor “-SC” Combining District, all WECS projects are limited to a maximum total height of 40 feet above grade (see Sections 22.62.090 and 22.64.045).

² Exceptions to standards other than height limits in Table 3-10 shall be considered through the Design Review process pursuant to Chapter 22.42 and the Coastal Permit process pursuant to Chapters 22.68 and 22.70.

C. Public notice. Where required, a Notice of the required application(s) shall be provided in compliance with Section 22.70.050 (Public Notice).

Notice of a discretionary permit application for any WECS within five miles of Federal, State, or regional park property shall be provided to the superintendent of the appropriate park.

D. Site and design requirements:

1. General standards. No Small WECS or Medium WECS (coastal) or supporting infrastructure shall be allowed:

- a. Within five times the total height or 300 feet, whichever is greater, of a known nest **of or** roost of a listed State or Federal threatened or endangered species or California Department of Fish and Game designated bird or bat ‘species of special concern’ or ‘Fully Protected species’ (unless siting of the WECS preceded nest or roost establishment) based on the findings and conclusions of the required Bird and Bat Study as defined in Section 22.32.190.G.9.
- b. Within five times the total height or 300 feet, whichever is greater, of a known or suspected avian migratory concentration point based on the findings and conclusions of the required Bird and Bat Study as defined in Section 22.32.190.G.9.
- c. Within 1.5 times the total height or 100 feet, whichever is greater, of an environmentally sensitive habitat area (ESHA); a State or Federal listed special status species habitat area; a designated archaeological or historical site; or a water course, wetland, pond, lake, bayfront area habitat island, or other significant water body with suitable avian habitat based on the findings and conclusions of a Bird and Bat Study as defined in Section 22.32.190.G.9.
- d. Where prohibited by any of the following:
 - 1. The Alquist-Priolo Earthquake Fault Zoning Act.
 - 2. The terms of any conservation easement or Williamson Act contract.
 - 3. The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources.

E. Appearance and visibility:

In addition to any conditions which may be required by Coastal Permit approvals, Small WECS and Medium WECS (coastal) shall comply with the following design standards:

- 1. WECS that exceed 40 feet in total height shall be located downslope a minimum of 300 feet horizontally or 100 feet vertically, whichever is more restrictive, from a visually prominent ridgeline, unless it can be demonstrated through submittal of a County accepted Wind Measurement Study that no other suitable locations are available on the site. If this is the case, then the Wind Measurement Study will be one amongst all other standards that would be evaluated in considering whether and where the WECS application should be approved within the ridge setbacks.
- 2. WECS shall be designed and located to minimize adverse visual impacts from public viewing

areas such as highways, roads, beaches, parks, coastal trails and accessways, vista points, and coastal streams and waters used for recreational purposes.

3. No wind turbine, tower, or other component associated with a WECS may be used to advertise or promote any product or service. Brand names or advertising associated with any WECS installation shall not be visible from offsite locations. Only appropriate signs warning of the WECS installation are allowed.
 4. Colors and surface treatments, materials and finishes of the WECS and supporting structures shall minimize visual disruption. Exterior materials, surfaces, and finishes shall be non-reflective to reduce visual impacts.
 5. Exterior lighting on any WECS or associated structure shall not be allowed except that which is specifically required in accordance with Federal Aviation Administration (FAA) regulations. Wind tower and turbine lighting must comply with FAA requirements and be at the lowest intensity level allowed.
 6. WECS shall be located in a manner which minimizes their visibility from any existing Federal parklands.
 7. All new electrical wires and transmission lines associated with WECS shall be placed underground except for connection points to a public utility company infrastructure. This standard may be modified by the Director if the project area is determined to be unsuitable for undergrounding of infrastructure due to reasons of excessive grading, biological impacts, or similar factors.
 8. Construction of on-site access routes, staging areas, excavation, and grading shall be minimized. Excluding the permanent access roadway, areas disturbed due to construction shall be re-graded and re-vegetated to as natural a condition as soon as **feasibly possible feasible** after completion of installation.
 9. All permanent WECS related equipment shall be weather-proof and tamper-proof.
 10. If a climbing apparatus is present on a WECS tower, access control to the tower shall be provided by one of the following means:
 - a. Tower-climbing apparatus located no closer than 12 feet from the ground;
 - b. A locked anti-climb device installed on the tower; or
 - c. A locked, protective fence at least six feet in height that encloses the tower.
 11. WECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
 12. Latticed towers shall be designed to prevent birds from perching or nesting on the tower.
 13. The use of guy wires shall be avoided whenever feasible. If guy wires are necessary, they shall be marked with bird deterrent devices as recommended by the US Fish and Wildlife Service or the California Department of Fish and Game.
- F. Noise.** Small WECS and Medium WECS (coastal) shall not result in a total noise level that exceeds 50 dBA during the daytime (7:00 AM to 10:00 PM) and 45 dBA during the nighttime (10:00 PM to 7:00 AM) as measured at any point along the common property lines of adjacent properties except during short-term events such as utility outages, severe weather events, and construction or maintenance operations, **as verified by per** specifications provided by the manufacturer.
- G. Application submittal requirements.** Small WECS and Medium WECS (coastal) permit applications shall include, **by but** may not be limited to, the following information:

1. Plot Plan. A plot plan of the proposed development drawn to scale showing:
 - a. Acreage and boundaries of the property;
 - b. Location, dimensions, and use of all existing structures; their use and dimensions within five times the height of the proposed WECS;
 - c. Location within a distance of five times the total height of the proposed WECS of all wetlands, ponds, lakes, water bodies, watercourses, listed State or Federal special status species habitats, habitat islands, and designated archaeological or historical sites;
 - d. Location of all proposed WECS and associated structures, and their designated use, dimensions, and setback distances;
 - e. Location of all areas to be disturbed by the construction of the proposed WECS project including access routes, trenches, grading and staging areas; and
 - f. The locations and heights of all trees taller than 15 feet within five times the height of the proposed WECS and the locations, heights, and diameters (at breast height) of all trees to be removed.
2. Elevation Details. Elevations of the components of the proposed WECS.
3. Minimized Impacts. A description of the measures taken to minimize adverse noise, transmission interference, and visual and safety impacts to adjacent land uses including, but not limited to, over-speed protection devices and methods to prevent public access to the structure.
4. Post-Installation Plan. A post-installation erosion control, revegetation, and landscaping plan.
5. Engineering Drawings and Analysis. Standard drawings and an engineering analysis of the system's tower, showing compliance with the Uniform Building Code (UBC), the International Building Code (IBC) or the California Building Code and certification by a professional mechanical, structural, or civil engineer licensed by this state. However, a wet stamp shall not be required, provided that the application s demonstrates that the system is designed to meet the UBC or IBC requirements for Seismic Zone 4, and the requirements for a soil strength of not more than 1,000 pounds per square foot, or other relevant conditions normally required by a local agency.
6. Electrical Drawing. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.
7. Notice of Intent. Written evidence that the electric utility service provider that serves the proposed site has been informed of the owner's intent to install an interconnected customer-owned electricity generator, unless the owner does not plan, and so states so in the application, to connect the system to the electricity grid.
8. Wind Measurement Study. A wind resource assessment study, prepared by a qualified consultant approved by the Marin County Environmental Coordinator, may be required. The study shall be performed for a minimum 6-month period during prime wind season, at the proposed site prior to the acceptance of an application. The study may require the installation of a wind testing facility, erected primarily to measure wind speed and directions plus and to collect other data relevant to appropriate siting. The study shall include any potential impacts on, or in conjunction with, existing WECS within a minimum of two miles of the proposed WECS site.

9. Bird and Bat Study. Before issuance of County building or planning permit approvals:

- a. All WECS projects shall require the submittal of a Bird and Bat Study prepared by a qualified consultant approved by the Marin County Environmental Coordinator using the "California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development" (California Energy Commission and California Department of Fish and Game), or any superseding State or Federal Guidelines, the State Natural Diversity Data Base, Partners in Flight Data Base, the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and field data and counts from local environmental groups. The Bird and Bat Study shall identify any listed State or Federal threatened or endangered species, California Department of Fish and Game designated bird or bat 'species of special concern' or 'Fully Protected species', or raptors found to nest or roost in the area of the proposed WECS site. **The study shall identify any avian migratory concentration points in the area of the proposed WECS site.** The study shall identify periods of migration and roosting and assess pre-construction site conditions and proposed tree removal of potential roosting sites. The Community Development Agency will maintain **on the Agency's website** an inventory of all Bird and Bat Studies that are filed pursuant to the requirements of the WECS ordinance ~~on the Agency's website~~. If the Bird and Bat Study for a proposed ministerial Small WECS project finds that there is a potential for impacts to any listed State or Federal threatened or endangered species or California Department of Fish and Game designated bird or bat 'species of special concern' or 'Fully Protected species' found to nest or roost in the area of the proposed WECS site, the project will become discretionary and require a Resource Management and Contingency Plan as described in Section 22.32.190.G.9.b.
- b. Small WECS and Medium WECS (coastal) projects, with the exception of Small Roof-Mounted WECS, shall require the Bird and Bat Study to include a Resource Management and Contingency Plan to: (1) provide for pre-approval and post-construction monitoring and reporting; and (2) provide mitigation to reduce bird and bat mortality rates, if necessary.

10. Visual Simulations. Visual simulations taken from off-site views, including from adjacent properties, as determined by the Community Development Agency shall be submitted showing the site location with the proposed WECS installed on the proposed site.

11. Project-Specific Acoustical Analysis. A project-specific acoustical analysis may be required that would simulate the proposed WECS installation to assure acceptable noise levels and, if necessary, provide measures to comply with applicable County noise standards.

H. Post approval requirements. Small WECS and Medium WECS (coastal) permit applications shall be subject to the following:

1. Post-Construction Avian and Bat Monitoring Program. A post-construction avian and bat monitoring program shall be required of the owner during periods of nesting, roosting, foraging, and migration, for **Small Non-grid-tied Agricultural WECS,** Small Freestanding WECS, and Medium WECS (coastal). The application of this requirement shall be in accordance with criteria established by a governmental agency, such as the U. S. Fish and Wildlife Service (USFWS) or the California Department of Fish and Game (CDFG), or by PRBO Conservation Science. The required monitoring program shall be conducted by a professional biologist or an ornithologist approved by the Marin County Environmental Coordinator. Monitoring protocol shall be utilized as set forth in the "California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development" (California Energy Commission and California Department of Fish and Game). **Operation of a A WECS** determined to be detrimental to avian or bat wildlife may be required to cease operation for a specific period of time or may be required to be decommissioned.

2. WECS Decommissioning and Reclamation Plan and Agreement. Before issuance of building permit approval, the owner/operator of any discretionary WECS shall enter into a WECS

Decommissioning and Reclamation Plan (Plan) and Agreement with the County, outlining the anticipated means and cost of removing the WECS at the end of its serviceable life or upon becoming a discontinued use if it remains inoperable for a period of more than one year. The owner/operator shall post suitable financial security as determined by the County in order to guarantee removal of any WECS that is non-operational or abandoned. The Plan must include in reasonable detail how the WECS will be dismantled and removed. The WECS must be dismantled and removed from the premises if it has been inoperative or abandoned for a period of more than one year. The Plan shall include removal of all equipment and may require removal of all foundations and other features such as fencing, security barriers, transmission lines, disposal of all solid and hazardous **water waste** in accordance with local, State and Federal regulations, and access roads to the satisfaction of the Director. The Plan shall include restoration of the physical state as existed before the WECS was constructed, and stabilization and re-vegetation of the site as necessary to minimize erosion. The owner/operator, at his/her expense, shall complete the removal within 90 days following the one-year period of non-operation, useful life, or abandonment, unless an extension for cause is granted by the Director or a plan is submitted outlining the steps and schedule for returning the WECS to service to the satisfaction of the Director. The WECS Decommissioning and Reclamation Plan Agreement shall be recorded by the Community Development Agency against the title of the property.

3. Encumbrances on Parcel(s). Any encumbrances placed on a parcel or parcels due to the installation of a WECS system shall remain in effect for as long as the WECS is on the site, and these encumbrances shall hold equal weight and be cumulative with respect to other limitations on the development of the parcel or parcels. Such encumbrances may not be the basis for granting any exceptions to the Marin County Development Code or Marin County Local Coastal Program regardless of any other additional development constraints imposed on the parcel or parcels. It is the owner's due diligence responsibility to ensure the siting of the WECS will not impose future development restrictions that are unacceptable to the owner.
4. Construction Monitoring. Construction monitoring of individual projects may be required to include, but not be limited to, surveys and/or inspections as needed, to ensure on-site compliance with all permit requirements, until implementation of requirements is complete.
5. Waste Removal. Upon the completion of construction and before final inspection, solid and hazardous wastes, including, but not necessarily limited to, packaging materials, debris, oils and lubricants, shall be removed promptly from the site and disposed of in accordance with all applicable County, State and Federal regulations. No hazardous materials shall be stored on the WECS site.

Section 22.130.030 – Definitions

The PC approved the new definitions for Section 22.130.030 with modifications as shown:

Avian Migratory Concentration Point. Avian migratory concentration point refers to both the place of departure and the destination of birds from one region to another, especially as a result of seasonal or periodic movement in order to breed, seek food, or to avoid unsuitable weather conditions.

[Note: The PC requested that this term be added to Development Code Section 22.130.030. However, this definition is already part of Section 22.130.030, and was inadvertently left out of the January 2012 Draft LCP. It will be included in the next version of the Draft.]

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 consistent with the Endangered Species Act of 1973.

Fully Protected Species. Fully Protected species is a classification of fish, amphibians, reptiles, birds and mammals established by the California Department of Fish and Game prior to the Federal Endangered Species Act of 1973, to identify and provide additional protection to those animals that

were rare or faced possible extinction at the time. Fully Protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except for collecting these species for necessary scientific research and relocation of the bird species for the protection of livestock. Species provided this classification are listed under the California Fish and Game Code Sections 3511, 4700, 5050, and 5515, however some of the listed species names are no longer consistent with current scientific nomenclature.

Solar Energy System (coastal).

As used in the Marin County Local Coastal Program, "solar energy system" means either of the following:

- (1) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electricity generation, or water heating.
- (2) Any structural design feature of a building, whose primary purpose is to provide for the collection, storage and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

[Adapted from California Civil Code Section 801.5]

Special Purpose District or Zone. Any of the special purpose zoning districts established by Section 22.06.020 (Zoning Districts Established), including PF (Public Facilities),⁷ and OA (Open Area);⁸ and by Section 22.62.030 (Coastal Zoning Districts Established), including the C-OAPE (Coastal, Open Area Public Facilities) zone as defined in Article V (Coastal Zones — Permit Requirements and Development Standards) Section 22.62.090 (Coastal Special Purpose and Combining Districts).

Species of Special Concern. As determined by the California Department of Fish and Game, a Species of Special Concern (SSC) is a species, subspecies, or distinct population of fish, amphibian, reptile, bird, or mammal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- a. is extirpated from the State or, in the case of birds, in its primary seasonal or breeding role;
- b. is listed as Federally-, but not State-, threatened or endangered;
- c. meets the State definitions of threatened or endangered but has not formally been listed;
- d. is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status;
- e. has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status.

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 consistent with the Federal Endangered Species Act of 1973.

Wind Energy Conversion System (WECS) (coastal) (land use). This land use is defined as any machine that converts and then stores or transfers the kinetic energy in the wind into a usable form of mechanical or electrical energy. The WECS consists of all parts of the system, including the base or foundation, tower, wind turbine, generator, rotor, blades, supports, and transmission equipment. Additional WECS definitions include:

1. Small WECS. This land use is defined as: (1) any small freestanding WECS up to 40 feet in total height above grade; or (2) a roof-mounted WECS; or (3) a non-grid-tied agricultural WECS.
2. Medium WECS (coastal). This land use is defined as any freestanding WECS project between 40 feet and 100 feet in total height above grade, not including Small Non-Grid-Tied Agricultural WECS that exceed 40 feet in total height.

3. Large WECS (coastal). This land use is defined as any WECS project greater than 100 feet in total height above grade.

4. Freestanding WECS. Any WECS project that is a self-supporting, stand-alone structure detached from any other type of structure.

5. Non-Grid-Tied Agricultural WECS. Any Small WECS project used solely to pump water for agricultural uses that does not connect to a public utility grid for distribution of energy, and that does not exceed 100 feet in height above grade.

6.5. Roof-Mounted WECS. Any Small WECS project that is roof-mounted, utilizes a horizontal-axis wind turbine (HAWT) or a vertical-axis wind turbine (VAWT), and does not exceed 10 feet in height above the roof line of the structure.

Wind Testing Facility (coastal). Wind testing facilities are those facilities or structures which that have been temporarily installed to measure wind speed and directions and collect other data relevant to siting WECS.

Chapters 22.62 and 22.64 – Coastal Combining Districts

The PC approved changes to Chapters 22.62 and 22.64 (including new Sections 22.62.090 and 22.64.045) with the following modifications:

- The PC requested that staff apply the new “Coastal Scenic Corridor” Combining District to the area east of Highway One in the Coastal Zone, change the maximum height for WECS to 100 ft in Section 22.64.045.B.1, and rename the new district as appropriate. Staff will revise and bring back to PC at future hearing for review.
- The PC requested that staff add “Small roof-mounted WECS” to Table 5-3-a (Chapter 22.62) as a Principal Permitted (PP) use.
- Staff will remove “Small non-grid-tied agricultural WECS” from Tables 5-1-d, 5-2-b and 5-3-a (Chapter 22.62) for consistency with changes made by PC to Section 22.32.190 for WECS (coastal).

IV. CHAPTER 22.66 – COASTAL ZONE COMMUNITY STANDARDS

The Planning Commission approved staff's recommended changes to Chapter 22.66 as follows:

CHAPTER 22.66 – COASTAL ZONE COMMUNITY STANDARDS
<p>Sections:</p> <p>22.66.010 - Purpose of Chapter 22.66.020 - Applicability 22.66.030 – Muir Beach Community Standards 22.66.040 – Stinson Beach Community Standards 22.66.050 – Bolinas Community Standards 22.66.060 – Olema Community Standards 22.66.070 – Point Reyes Station Community Standards 22.66.080 – Inverness Community Standards 22.66.090 – East Shore Community Standards 22.66.100 – Tomales Community Standards 22.66.110 – Dillon Beach Community Standards</p> <p>22.66.010 - Purpose of Chapter</p> <p>This Chapter provides development standards for specific communities within the Coastal Zone, where the preservation of unique community character requires standards for development that differ from the general coastal zoning district requirements of this Article.</p> <p>22.66.020 - Applicability</p> <p>The provisions of this Chapter apply to proposed development and new land uses in addition to the general site planning standards for the coastal zoning districts in Chapter 22.64 (Coastal Zone Development and Resource Management Standards) and all other applicable provisions of this Development Code. In the event of any perceived conflict between the requirements of this Chapter and any other provisions of this Development Code, this Chapter shall control.</p> <p>22.66.030 – Muir Beach Community Standards</p> <p>A. Community character. Maintain the small-scale character of Muir Beach as a primarily residential community with <u>recreational, small-scale visitor-serving and limited agricultural</u> and very limited commercial use (Land Use Policy C-MB-1).</p> <p>22.66.040 – Stinson Beach Community Standards</p> <p>A. Community character. Maintain the existing character of residential and <u>and visitor-serving recreational</u> development in Stinson Beach (Land Use Policy C-SB-1).</p> <p>B. Limited access in Seadrift. Allow only limited public access across the unsubdivided open space area generally located north of Dipsea Road and adjacent to Bolinas Lagoon in the Seadrift subdivision lands fronting Bolinas Lagoon <u>subject to the Deed of an Open Space and Limited Pedestrian Easement and Declaration of Restrictions as recorded March 26, 1986 as Instrument No. 86-15531. This area includes parcels 195-070-35 and 36; 195-080-29; 195-090-44; 195-320-62 and 78; and 195-340-71, 72, and 73</u> (Land Use Policy C-SB-2).</p> <p>C. Density and location of development in Seadrift. Development within the Seadrift Subdivision shall be subject to the standards contained in Land Use Policy C-SB-3.</p>

D. Easkoot Creek. ~~The original channel of~~ Easkoot Creek shall be restored, as feasible, to improve habitat and support natural processes, flow into the lagoon in the vicinity of the old causeway between Calle del Arroyo and Highway 1 to improve the hydraulic action of the lagoon (Land Use Policy C-SB-4).

~~**E. Camping and hostel facilities.** Consider the Christmas Tree Ranch site (APN _____) as a potential location for camping and hostel facilities for hikers and bicyclists, consistent with the Golden Gate National Recreation Area General Management Plan (Land Use Policy C-SB-5). (PC deleted, 9/19/11)~~

F. Height limit in Highlands Subdivision. In the Highlands Subdivision of Stinson Beach, the maximum height shall be no more than seventeen (17) feet per Land Use Policy C-DES-4.

G. Height measurement in Seadrift Subdivision. In FEMA special flood hazard (V) zones within the Seadrift Subdivision, the maximum building height of 15 feet shall be measured from the minimum floor elevation required by the flood hazard zone designation per Land Use Policy C-DES-4 and C-EH-11.

H. Stinson Beach dune and beach areas. Development of shorefront lots within the Stinson Beach and Seadrift areas shall be limited per Land Use Policy C-BIO-9.

I. R-2 zoning. Existing R-2 zoning in Stinson Beach shall be maintained per Land Use Policy C-SB-6. (PC added 9/19/11)

J. Repair or Replacement of Structures. The repair or replacement of existing duplex residential structures shall be permitted per Land Use Policy C-SB-7. (PC added 9/19/11)

22.66.050 – Bolinas Community Standards

A. Community character. Maintain the existing character of small-scale residential, commercial, and agricultural uses in Bolinas (Land Use Policy C-BOL-1).

~~**B. C-RCR zoning district development standards.** New construction of, or conversion of existing structures to hotel, motel, hostel, lodge, resort, or campground facilities will be evaluated based on the criteria contained in Land Use Policy C-BOL-2. (PC deleted 9/19/11)~~

C. New development on the Bolinas Gridded Mesa. New construction and the redevelopment and rehabilitation of existing structures on the Bolinas Mesa shall be permitted in accordance with the policies of the Bolinas Gridded Mesa Plan which has been certified by the California Coastal Commission (Land Use Policy C-BOL-3).

22.66.060 – Olema Community Standards

A. Community character. Maintain Olema's existing mix of residential, commercial, and open space land uses and the small-scale, historic community character. The impacts of future development on the hillside area of Olema shall be minimized through application of the design standards contained in Land Use Policy C-OL-1.

22.66.070 – Point Reyes Station Community Standards

A. Community character. Maintain the existing mix of residential and small-scale commercial development and the small-scale, historic community character in Point Reyes Station (Land Use Policy C-PRS-1).

- B. Commercial infill.** Commercial infill development should be promoted within and adjacent to existing commercial uses per Land Use Policy C-PRS-2.
- C. Visitor-serving and commercial facilities.** The development of additional visitor-serving and commercial facilities, especially overnight accommodations, shall be encouraged per Land Use Policy C-PRS-3.
- D. Junction of Highway One and Point Reyes Petaluma Road (APN 119-240-55).** The development of APN 119-240-55 shall comply with standards contained in Land Use Policy C-PRS-4.
- E. New residential development in Point Reyes station.** New residential development in Point Reyes Station shall comply with the building height, building size, and landscaping criteria specified in Land Use Policy C-PRS-5.
- F. Lighting.** Exterior lighting shall comply with Land Use Policy C-PRS-6.
- G. Point Reyes Affordable Homes Project.** Development of the 18.59 acre property consisting of Assessor's parcels 119-260-02 through -06 (formerly 119-240-45) and 119-240-02 through -13 (formerly 119-240-46, 57 and 58) shall conform with the provisions of Land Use Policy C-PRS-7. (PC added 9/19/11)

22.66.080 – Inverness Community Standards

- A. Community character.** Maintain the existing character of residential and small-scale commercial development in the Inverness Ridge communities (Land Use Policy C-INV-1).
- ~~**B. New visitor-serving uses.** New commercial development on Inverness Ridge shall be limited and new visitor-serving uses, particularly lodging facilities, shall be evaluated against the criteria contained in Land Use Policy C-INV-2. (PC deleted 9/19/11)~~
- C. Paradise Ranch Estates design guidelines.** Development in Paradise Ranch Estates should maintain the existing exclusively residential nature of the community and should consider the community's unique factors such as substandard roads and the need to protect viewsheds from adjacent parklands. The guidelines contained in Land Use Policy C-INV-3 regarding protection of visual resources, public services, and tree protection shall apply to development within Paradise Ranch Estates.
- D. Tomales Bay shoreline development standards.** New construction along the shoreline of Tomales Bay shall be limited in height to 15 above grade except as provided for per Land Use Policy C-CD-6.
- E. Road and Path MaintenanceAlternative Transportation.** Existing residential streets and pathways shall be maintained ~~The present roadway system shall be maintained in its present capacity and configuration while providing for alternative means of circulation to complement the roadway system~~ consistent with Land Use Policy C-INV-4.

22.66.090 – East Shore Community Standards

- A. Community character.** Maintain the existing character of low-density residential, agriculture, mariculture and fishing or boating-related uses. The expansion or modification of visitor-serving or commercial development on previously developed lots along the east shore of Tomales Bay should be allowed consistent with Land Use Policy C-ES-1.
- B. Tomales Bay shoreline development standards.** New construction along the shoreline of Tomales Bay shall be limited in height to 15 above grade except as provided for per Land Use Policy C-CD-6.
- C. Protection of trees.** Significant stands of trees should be identified and protected (Land Use Policy

C-ES-2).

- D. Prioritization of water-related uses.** Mariculture, boat repair, fishing, water-related recreation and scenic resources shall have priority over other uses along the shoreline (Land Use Policy C-ES-3).
- E. Commercial land use.** The development of commercial and public facilities should be limited to existing activity centers, such as Nick's Cove, historic Marshall or near the Post Office/Marshall Boatworks and Marconi area (Land Use Policy C-ES-4).
- F. Local serving facilities.** Local serving facilities should be incorporated in ~~all~~-new development, where appropriate (Land Use Policy C-ES-5).
- G. New marina development.** New marina developments shall make provisions for the use of the facilities by local commercial and recreational boats (Land Use Policy C-ES-6).

22.66.100 – Tomales Community Standards

- A. Community character.** Maintain the existing character of residential and small-scale commercial development in the community of Tomales consistent with the provisions of Land Use Policy C-TOM-1.

22.66.110 – Dillon Beach Community Standards

- A. Community character.** Maintain the existing character of residential and small-scale commercial development in Dillon Beach and Oceana Marin consistent with the provisions of Land Use Policy C-DB-1 and C-DB-3.

- B. C-R-1:B-D Zoning standards.** The following standards shall apply in those areas of Dillon Beach governed by the C-R1:BD. zoning district.

- 1. Minimum lot size.** Parcels proposed in new subdivisions shall have a minimum area of 1,750 square feet for each single-family dwelling.
- 2. Setback requirements.** Structures shall be located in compliance with the following minimum setbacks (See Section 22.20.100, Setback Measurement and Exceptions):
 - (a) Front.** The minimum front yard setback shall be 10 feet.
 - (b) Sides.** The minimum side yard setbacks shall be 5 feet; 10 feet for a street side setback on a corner lot.
 - (c) Rear.** The minimum rear yard setback shall be 10 feet.
- 3. Height limits.** Structures shall not exceed a maximum height of 20 feet (See Section 22.20.060 Height Measurement and Height Limit Exceptions)
- 4. Floor area ratio (FAR).** Parcels in this district are exempt from this limitation.

- C. Lawson's Landing.** Lawson's Landing shall be retained as an important lower cost visitor serving facility per Land Use Policy C-DB-2. (PC added 9/19/11)

- D. Dillon Beach Community Plan.** Refer to the Dillon Beach Community Plan, which has been certified by the California Coastal Commission, when reviewing Coastal Permits per Land Use Policy C-DB-4. (PC added 11/7/11)