



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

STAFF REPORT TO THE PLANNING COMMISSION
LOCAL COASTAL PROGRAM AMENDMENT
LCP Amendment (LCPA) Public Review Draft

Item No: 4
Hearing Date: January 9, 2012
Planners: Jack Liebster, Principal Planner
Kristin Drumm, AICP, Senior Planner
Christine Gimmler, AICP, Senior Planner
Alisa Stevenson, Assistant Planner
Steve Scholl, AICP, Consulting Planner

RECOMMENDATION:

1. Conduct public hearing;
2. Approve the proposed changes to the LCPA; and
3. Provide direction to staff.

SUMMARY RECOMMENDATION:

Today's hearing is the seventh Planning Commission hearing on Marin County's Local Coastal Program Amendment (LCPA). The LCPA includes the Public Review Draft (PRD) and Development Code Amendments. This hearing will focus on certain carryover issues from the following areas:

- Development Code Structure and Process, including Chapters 22.68 and 22.70;
- Agriculture;
- Community Development;
- Community Specific Policies;
- Energy, and
- Chapter 22.66 – Coastal Zone Community Standards.

The proposed changes for these carryover issues are shown in Attachments #1 and #2. Staff recommends that your Commission review and provide tentative approval of Attachments #1 and #2 at the conclusion of today's hearing.

The dates and topics of the two remaining Planning Commission hearings on the LCPA are shown below. These hearings have been scheduled for the Commission to review carryover issues and to adopt a recommendation on the LCP Public Review Draft to the Board of Supervisors.

January 23, 2012	Carryover Issues from Natural Systems and all other remaining issues.	10:00 AM - 5:00* PM
February 13, 2012	Hearing date to consider adoption of the LCPA Public Review Draft and recommendation to the Board of Supervisors	10:00 AM - 5:00* PM

* Please note the proposed subject areas and times are estimates only and may be subject to change. Specific dates, topics, and times will be set for each continued hearing as revised and confirmed at each previous hearing.

BACKGROUND:

The following attachments are provided for your review:

Attachment #1: Recommended changes to carryover and other discussion items.

Attachment #2: Proposed Development Code amendments related to Wind Energy Conversion Systems (WECS) in the Coastal Zone. This is divided into four parts: *Part One* (p. 1) provides proposed Section 22.32.190, which establishes specific land use standards for WECS (coastal); *Part Two* (p. 12) includes proposed new and modified definitions for Section 22.130.030; *Part Three* (p. 15) provides proposed Sections 22.62.090 and 22.64.045, which would establish the Coastal Scenic Corridor “-SC” Combining District; and *Part Four* (p. 20) reflects proposed changes to Tables 5-1-d, 5-2-b, and 5-3-a of Chapter 22.62 for consistency with proposed Section 22.32.190.

Attachment #3: Illustrative table of WECS permit requirements established by proposed Section 22.32.190 (see Attachment #2)

RECOMMENDATION:

Staff recommends the hearing be conducted as follows:

- Staff presentation of the carryover issues;
- Public testimony (per adopted protocols attached: 3 minutes per individual, 6 minutes per organization);
- Close public testimony and conduct Commission deliberations;
- Tentatively approve proposed changes;
- Provide comments and direction to staff; and
- Continue public hearing to Monday, January 23, 2012.

Attachments:

1. Recommended Changes to Certain Carryover Issues
2. Proposed Development Code Amendments: WECS (Coastal)
3. Illustrative table of Wind Energy Conversion Systems Permit Requirements

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I. DEVELOPMENT CODE STRUCTURE AND PROCESS

A. CHAPTER 22.68 – Coastal Permit Requirements

1. Section 22.68.040 – Categorically Excluded Projects

On Nov. 7, 2011 the PC discussed and tentatively endorsed the following Development Code provisions, with changes shown below that reflect comments received from the Coastal Commission staff in their letter of Aug. 10, 2011. Because the staff report for the Nov. 7, 2011 PC hearing indicated that the item would be brought back for discussion at a future meeting, it is presented again here for approval

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.

2. Section 22.68.060 – Non-Exempt Projects

On Nov. 7, 2011 the PC discussed the proposed addition of Item "J. Repair and maintenance activities" (as shown below) to the list of Non-Exempt Projects. That proposed addition was presented in the staff report for the Nov. 7 meeting. The PC expressed a concern at that time for the proposed exemption of mechanized construction equipment as close as 20 feet to coastal waters. The provision regarding construction equipment and the proximity of it to coastal waters is taken from the California Coastal Commission's regulations. Subsequent to the Nov. 7 hearing, County staff has asked Coastal Commission staff whether the County could be more protective of resources than the Coastal Commission's regulations. This item will be brought back to the PC following a response from the Coastal Commission staff.

Proposed Item "J. Repair and maintenance activities," if adopted as shown below, would create a conflict with a separate provision contained in the Public Review Draft at Sec. 22.68.050 – Exempt Projects. Both provisions refer to repair and maintenance of revetments and seawalls, but with different provisions (one says that replacement of 50 percent or more of a seawall would not constitute "repair" and thus would require a coastal permit, whereas the other says that replacement of 20 percent or more of a seawall would require a coastal permit). To avoid this conflict, Sec. 22.68.050 – Exempt Projects should be adjusted as shown below, so as to drop the reference to seawalls and revetments.

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:

...

J. 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) 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) 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

...

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.

3. Section 22.68.090 – Consolidated Coastal Permit

On Nov. 7, 2011 the PC discussed this provision and requested staff to clarify who may initiate a request for a consolidated coastal permit and whose agreement is subsequently required. The Coastal Act (Sec. 30601.3) is silent on who may initiate a request. However, in the document titled “Updating Implementation Plan (IP) Procedures” (2011) posted on the Coastal Commission’s website, Coastal Commission staff advises that the Implementation Plan could designate who from the local government (e.g., the Planning Director) will make the decision to ask the Commission to act and under what criteria. Consistent with that direction, staff recommends the following provisions.

One additional change is included in the following recommendation, and that is to delete the final sentence. The reason is that the sentence could create misunderstanding about the provision of public notice for a consolidated coastal permit. If a consolidated coastal permit is agreed to by all parties, then the Coastal Commission will process the coastal permit, and thus public notice will be provided by the Coastal Commission and not the County.

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.~~

B. CHAPTER 22.70 – Coastal Permit Administration

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

On 11/7/11, the Planning Commission preliminarily accepted staff’s recommendation for Section 22.70.030.B.5 as proposed in the 11/7/11 staff report with further recommended modifications in the Supplemental Memo of 11/3/11. The memo of 11/3 indicated that final action on this item would be deferred to allow the public adequate time to review the changes. Accordingly, the revisions are presented again below for final Planning Commission approval.

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,
- b2) 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

A. Agriculture

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

At the 10/10/11 hearing, the Planning Commission increased the size limit for principally permitted agricultural processing and sales facilities to 5,000 square feet and 500 square feet respectively (Program C-AG-2.b, items 2.e and 2.f). During subsequent review of the 10/10/11 decision table, the Commission noted that Conditional Use items 4.j. and 4.k should be made consistent with the language used in 2.e. and 2.f. Accordingly, staff recommends the following changes (both sections are shown for comparison, new changes highlighted).

2. Principal Permitted Uses.

...

- e. Processing of agricultural products grown principally in Marin County in a processing facility that does not exceed ~~2500~~ 5000 square feet
- f. Retail sales of agricultural projects grown principally in Marin County from a sales facility that does not exceed ~~250~~ 500 square feet.

4. Conditional Uses.

...

- ~~j. Facilities for agricultural processing that exceed Use Permit waiver~~ the processing of agricultural products not grown principally in Marin County or any agricultural processing facility which exceeds 5000 square feet.
- ~~k. Sales of agricultural products that exceed Use Permit waiver~~ The retail sales of agricultural products not grown principally in Marin County or any agricultural sales facility which exceeds 500 square feet.

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

At the 10/10/11 hearing, the PC requested that staff bring back Program C-AG-2.c with a more specific limitation on the exact number of agricultural worker housing units that would be permitted on agricultural lands.

Consistent with state housing law, agricultural worker housing with a maximum of 12 units or spaces for farmworkers and their households (or 36 beds in group living quarters) must be considered an "agricultural" rather than "residential" use, and therefore, would not be counted in the calculation of residential density. In addition, State law prohibits local jurisdictions from requiring a Use Permit for agricultural worker housing meeting these limits. However, any application for the development of agricultural worker housing, regardless of size, would still be subject to a Coastal Permit, and pursuant to Section 22.32.028, would be reviewed as a principal permitted use to determine whether the proposed housing is necessary to support agricultural uses on the property, or is otherwise commensurate with local need to support agricultural operations in the region. As noted in the "Guidelines for Agricultural Worker Housing Needs" provided as part of the October 10th staff report, agricultural housing needs vary widely depending on the type, size, and nature of the agricultural operation (ranging from almost no housing for beef and sheep grazing up to one employee or more for every two acres of row crop production). Accordingly, it would not be appropriate or feasible to impose a specific numerical limitation on the number of agricultural worker housing units on any particular property. However, in every case, the Coastal Permit review process would allow County staff and the Planning Commission, in consultation with agricultural experts if necessary, to determine the appropriateness of any given agricultural worker housing proposal, including requirements for annual employment verification, licensing by the State

Department of Housing and Community Development, and where appropriate, imposition of restrictive covenants to ensure that farmworker housing will continuously be maintained as such.

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

At the 10/10/11 and 10/24/11 hearings, the Planning Commission questioned whether this program was appropriate for inclusion in the LUP and requested that staff provide an estimate of the number of unpermitted agricultural worker housing units that could potentially qualify for such a program. Housing staff have indicated that it is difficult to obtain an accurate count of the total number of existing agricultural worker units in the County, in part due to the fact that many existing units are unpermitted. In addition, small sample surveys which have been conducted indicate that a majority of the existing stock of units is unpermitted or otherwise substandard. Program C-AG-2.d was drawn from the County's Draft Housing Element as previously approved by the Planning Commission, and it is likely that any amnesty program that would be developed would address unpermitted agricultural worker housing throughout the County. However, Housing staff strongly recommends that this program be maintained in the LUP to facilitate eventual implementation of such a program within the Coastal Zone. In order to address comments from Coastal Commission staff on this program, staff suggests that the text be modified as indicated below:

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 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]

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

At the October 10, 2011 hearing, the PC requested that this Policy be divided into two separate policies, one for developments that do not require a Master Plan and one for those that do. The PC also supported staff's suggestion that the policy language be modified to better integrate the Master Plan and Coastal Permit processes for a more efficient and clear permitting process.

The Master Plan requirement in the current certified LCP generally applies to non-agricultural development and land divisions. The work of the Master Plan can be accomplished through the Coastal Permit. Thus staff recommends the PC's direction be carried out by the following revised language that distinguishes between agricultural development and non-agricultural uses, including land divisions.. Section "A" below sets out standards that apply to both agricultural uses and non-agricultural uses, assuring that they conform with provisions for agricultural protection, adequate services to support development, protection of environmental resources and all other applicable policies of the LCP.

Section "B" defines standards including and in addition to those in Section "A" that non-agricultural development, such as the division of agricultural lands or construction of two or more dwelling units (excluding agricultural worker or intergenerational housing) must meet.

The revised text carries forward the required standards and findings proposed in the PRD, which in turn were carried forward from the currently certified LCP, and have been in place for thirty years. However, instead of these standards applying only when it is determined that a Master Plan is needed, these revisions would make them applicable to all Coastal Permits. In several cases, text is crossed out simply because it is moved from one section to another, not because it is deleted altogether. The Development Standards of C-AG-7, for example, have been divided between sections "A" and "B" depending on whether they apply to both agricultural and non-agricultural development, or only to non-agricultural development.

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.~~
- ~~2 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 or significantly reduce freshwater inflows to water bodies including but not limited to Tomales Bay, either individually or cumulatively.

~~5. Appropriate public agencies are able to provide necessary 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]

5. Section 22.65.040 C-APZ Zoning District Standards

At the October 24, 2011 hearing, the PC requested that section 22.65.040.B (and staff presumes the similar language in 22.65.040C) be revised to clarify that “All development” refers to non-agricultural development and subdivisions, but not to agricultural facilities. Section 22.65.040 implements Policy C-AG-7. The Commission on Oct. 10, 2011 had requested that Policy C-AG-7 be divided into two separate policies, one for developments that do not require a Master Plan and one for those that do. Those changes are shown in the section on Policy C-AG-7 above, and are incorporated below.

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 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 retained as a single unit.
- b. **Management plans 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 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).

6. Second Units on C-APZ Parcels

At the 10/10/11 hearing, the Planning Commission requested that staff consider allowing second units on C-APZ parcels, and bring this issue back for further discussion. Historically, residential second units have not been permitted in the C-APZ zoning district, although Bed and Breakfasts have been a means of providing visitor-serving overnight accommodations. The PRD proposes new provisions to allow additional housing options in the C-APZ zone including up to two intergenerational housing units for members of the farm operator's or owner's immediate family. However, Coastal Commission staff has already indicated concerns with this proposal since the intergenerational housing occupants would not be required to be engaged in agricultural operations. Therefore, it is similarly unlikely that a proposal to allow residential second units, which could be completely unrelated to agricultural use of the property, would be acceptable to the Commission. Accordingly, staff does not recommend pursuing this option.

7. Section 22.32.023 – Agricultural Homestays (Coastal)

At the 10/24/11 hearing, the Commission requested that staff modify the Agricultural Homestay standards to clarify that:

- Agricultural homestays are not to operate as a restaurant facility (i.e. patronage requires an overnight stay);
- The appearance of agricultural homestays should maintain the character of the farm buildings; and
- Agricultural homestay guests may participate in agricultural activities on the property.

Accordingly, staff proposes the following revisions to Section 22.32.023:

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.

8. Section 22.32.025 – Farmhouse (Coastal)

At the 10/24/11 hearing, staff proposed to modify the last sentence in Section 22.32.025 to read, "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.” The Planning Commission found this confusing and requested that staff revise the language. The standards and limitations contained in Section 22.32.025 state that a farmhouse must be “integral with and necessary to support agricultural operations.” Therefore, it would be illogical for the approval of a *farmhouse* to result in the conversion of agricultural lands to residential use. The issue of residential development impacts on agricultural use is addressed separately by policy C-AG-9 and Development Code Section 22.62.060.E. Accordingly, staff recommends that this sentence be deleted from 22.32.025.

~~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.~~

9. Section 22.32.026 – Agricultural Processing Uses

At the 10/24/11 hearing, the Planning Commission requested that staff propose a specific measureable limitation on the frequency of tours associated with agricultural processing uses to replace the subjective language of “...on a *scheduled or regular basis*.” Staff review of a sample of existing agricultural processing facilities (primarily cheese-making) indicates that the frequency of tours generally range from once a month to once a week, with some seasonal variations. In addition, tours operated by a non-owner/operator organization such as MALT or Marin Organic, may also occur on an infrequent basis. To allow some flexibility, staff recommends that the Planning Commission consider adopting a limitation equivalent to two facility tours per month, applied on a yearly basis (i.e. 24 tours per year) to accommodate the seasonal nature of certain types of processing uses. It should be noted that, since Section 22.32.026.A.4 is only applicable to processing facilities of 5,000 square feet or less, it is unlikely that large tours could be accommodated regardless of frequency. In addition, to date, CDA enforcement staff has not received complaints about existing tours of ranch properties or agricultural processing facilities currently taking place in the County.

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.

10. Section 22.32.027 – Agricultural Retail Sales and Facilities (Coastal)

At the 10/24/11 hearing, the Planning Commission asked staff to clarify whether “on-site sales facility” is intended to mean the same thing as “sales structure,” and if so, to use one term or the other consistently throughout the Code. As described in Section 22.32.027.A.1, an on-site sales facility may or may not include a sales structure. Therefore, the use of two separate terms is appropriate, where “on-site sales facility” refers to the sales operation as a whole, and “sales structure” refers to the building or shelter, if any, associated with a particular sales facility. Where Code provisions refer to size (square footage) or height requirements, it is more appropriate to use “sales structure”. Therefore, staff recommends the following modifications to Section 22.32.027.B.3

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

.....

3. An on-site sales facility structure that does not exceed 250 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 also be exempt from Design Review.

11. Section 22.32.027 – Agricultural Retail Sales and Facilities (Coastal)

At the 10/24/11 hearing, the Planning Commission requested that staff consider revising part 'A' to include a statement that agricultural worker housing is not counted as part of the density. To clarify this issue, staff recommends the following modification (deletion of non-coastal zoning districts previously approved):

- 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**).
-

12. Section 22.32.115 – Non-Agricultural Uses (Coastal)

At the October 24, 2011 hearing, the PC agreed with staff that this section will be considered at a future hearing since it was not listed on the PC agenda for 10/24.

Staff simply proposes a clarification in the title in this case. As stated, the purpose of this section is to establish a process to “determine whether a specific non-agricultural land use is accessory and incidental to the primary use of land for agricultural production.” Staff had considered whether to include development standards for non-agricultural developments in this section, but instead opted to keep these in Chapters 22.62 and 22.65, especially sec. 22.060030.D and E, and 22.65.040.C.

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...

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

At the 10/24/11 hearing, the Planning Commission requested that staff consider allowing “kennels and animal boarding” in the C-APZ district. Kennels and animal boarding are defined as the keeping, boarding or maintaining of six or more household pets. In the existing Interim Zoning Code, kennels and animal boarding are conditionally permitted uses in other coastal agricultural zoning districts such as C-ARP, and C-R-A. Although not agricultural, kennels are a type of use often found in rural areas that, in certain cases, could be incidental to and compatible with agricultural production. Accordingly, staff recommends that “kennels and animal boarding” be permitted as a conditional use in the C-APZ district.

14. General Comment from 22.32 related to Definitions

At the 10/24/11 hearing, the PC agreed with staff's suggestion to place all defined terms of art in italic bold font where they occur throughout the Development Code, in order to indicate that the definition for that term can be found in Section 22.130.030. However, staff has found that so many words would be in bold, the result would be cluttered and not be very helpful.

IV. BUILT ENVIRONMENT

A. Community Development (CD)

1. C-CD-22 Agricultural Land Use Categories

In response to comments from Coastal Commission staff, the following changes are recommended to C-CD-22 in order to make the language consistent with similar language in C-CD-23.

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 units, 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 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]

2. C-CD-23 Residential Land Use Categories and Densities

Staff recommends deleting the C-MF3.5 land use designation from the “Low to Medium Density Residential” category, as shown below, since none exist in the Coastal Zone.

.....

Low to Medium Density Residential

The following low to medium density residential land use categories (from 5 to 16 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]

B. Community Specific Policies

1. C-SB-2 Limited Access in Seadrift

Staff recommends modifying C-SB-2 based on consultation with representatives from the Seadrift Association to reflect outcomes from the Seadrift Settlement Agreement, as follows:

C-SB-2 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 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]

2. C-SB-3 Density and Location of Development in Seadrift

Staff recommends modifying C-SB-3 and corresponding language in 22.65.070 and 22.66.040 based on consultation with representatives from the Seadrift Association to reflect outcomes from the Seadrift Settlement Agreement, as follows:

C-SB-3 Density and Location of Development in Seadrift. For purposes of this policy, the Seadrift subdivision is divided into five sub-areas as follows: Development of the approximately 327 lots within the Seadrift 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 Seadrift 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]

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

Staff recommends modifying Section 22.65.070 to be consistent with changes in Policy C-SB-3 Location and Density of Development in Seadrift (above) 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 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 ±14.14 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 Subdivision 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.

4. Section 22.66.040 – Stinson Beach Community Standards

Staff recommends modifying Section 22.66.040 to be consistent with changes in Policy C-SB-2 Limited Access in Seadrift (above) 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).

C. ENERGY

1. Energy Chapter Introduction – Land Use Plan

At the 11/7/11 hearing, the PC approved staff's recommendation to revise the LUP Energy chapter introduction as proposed in the staff report, and asked that it be further modified to include additional select changes suggested by the Marin Conservation League (MCL). Staff has revised the introduction as directed and added additional proposed changes to the last two paragraphs. All new changes are highlighted below:

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 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 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 future.

2. Policy C-EN-6

At the 11/7/11 hearing, the PC requested that staff bring back Policy C-EN-6 with more detailed background regarding staff's recommendation to approve the certified policy language without further modifications, and to strengthen other Policy and Development Code standards to assure proposed solar and wind facilities meet appropriate siting and scale criteria.

Policy C-EN-6 carries forward existing LCP Unit II New Development and Land Use Policy 7, originally certified by the CCC in 1981. This policy remains certified unless substantially amended, in which case the CCC would be required to undertake a detailed analysis of the policy to re-establish consistency with Coastal Act Section 30260:

Section 30260 – Location or expansion

Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.

Today, it would be extremely difficult to make sufficient findings necessary to support all the conditions of Section 30260. Such findings would be highly complex, require a lengthy and involved analysis, and could result in the rejection of the policy altogether. If the policy is carried forward without amendment and with only minor edits to re-number the policy and remove the outdated reference to "Unit II," then it will be more likely to continue as part of the LCP without further modifications. Without the prohibition that this policy establishes, the coastal agricultural lands north of Walker Creek could become vulnerable to future development of major energy or industrial facilities such as power plants. Other lands north of Olema are protected by the CCC's negative designations for power plant development, while lands south of Olema are almost entirely under public ownership, either as open space or parks.

Regarding the Planning Commission's concern that the exemption of solar and wind energy from Policy C-EN-6 would allow renewable energy facilities inappropriate for the Coastal Zone, Policy C-EN-4 specifically addresses this issue by requiring that "impacts to people, natural resources and views would be avoided or minimized" in developing renewable energy resources. Furthermore, proposed Development Code Sections 22.32.161 and 22.32.190 (below and in Attachment #2) now provide specific, detailed implementation for this requirement. Since the PC's concerns have been met in this manner, and the background for this policy explained further, staff strongly recommends that Policy C-EN-6 be continued from the original LCP unchanged except for numbering and removal of the outdated reference to Unit II.

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]

3. Section 22.32.161 – Solar Energy Systems (Coastal)

At the 11/7/11 hearing, the PC requested that staff revise proposed Development Code Section 22.32.161 for *Solar Energy Systems (coastal)* to require design review for projects exceeding height and setback requirements, and to include a standard for area coverage of free-standing systems that equates to the needs of the structure/use with which it is associated. In addition, the CCC has requested that free-standing solar energy systems not be allowed as a Principal Permitted Use, but instead as a Permitted Use. Upon further consideration, staff has determined that a Use Permit or Design Review is not necessary as a requirement for free-standing systems that exceed the height standard, and recommends that this reference be deleted from item B.ii below. Proposed free-standing systems already require a Coastal Permit, which provides a sufficient level of discretionary review and thus should not require an additional discretionary permit.

Staff also recommends that the first sentence be deleted from the introductory paragraph, and replaced with a reference to the definition in Section 22.130.030 as shown below, and that “solar energy system” be added to item A.iii as shown for clarity. Furthermore, staff proposes adding an exception as shown to item B.iii to provide opportunity for community-based uses at the Director’s discretion. For consistency with new Section 22.32.161, staff has also added “Solar Energy Systems (coastal), roof-mounted” and “Solar Energy Systems (coastal), free-standing” to Tables 5-1-d, 5-2-b, and 5-3-a in Chapter 22.62 (see Attachment #2). Staff recommends that Section 22.32.161 be approved with the changes highlighted below. *[See also proposed changes to Section 22.130.030 (Definitions) regarding solar energy systems].*

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.~~

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.

4. Section 22.32.190 – Wind Energy Conversion Systems (WECS) (Coastal)

The PC voted 5-1 in favor of “Alternative 4” proposed by Commissioner Holland as follows:

Implement the countywide WECS Ordinance (No. 3548) in the Coastal Zone, with modifications to restrict total WECS height to 40 ft in areas west of Hwy 1, and to 100 ft in areas east of Hwy 1.

Following consultation with County Counsel, staff has determined this alternative to be legal and feasible through the implementation of a new combining zoning district (i.e. overlay zone). Staff recommends that this new district be established as the Coastal Scenic Corridor “-SC” Combining District. The “-SC” District would be implemented by new Development Code Sections 22.62.090 and 22.64.045, and would apply to all land west of Highway 1. To further implement the approved WECS alternative, it is necessary to establish a new set of land use standards for WECS in the Coastal Zone. These standards are encompassed in new Development Code Section 22.32.190, and are based on the non-coastal WECS standards of Section 22.32.180 with modifications to reflect height restrictions of the chosen alternative and for consistency with the Local Coastal Program and Coastal Permit process. Staff has also updated Tables 5-1-c, 5-2-b, and 5-3-a from Chapter 22.62, as well as select definitions from Section 22.130.030 for consistency with new Section 22.32.190. Staff recommends the proposed Development Code changes discussed herein be approved for inclusion in the Marin County Development Code.

Please see Attachment #2 for details of proposed Development Code changes.

5. Section 22.130.030 – Definitions

The PC approved the definition for *solar energy system (coastal)* as shown below at the 11/7/11 hearing. However, at the 11/28/11 hearing, the PC raised the concern that the definition as approved does not allow for passive solar energy systems. To better encompass all types of solar energy systems, staff proposes the two alternative definitions below for consideration by the PC. Staff recommends “Alternative 1” for consistency with the State’s definition in California Civil Code Section 801.5.

Definition approved on 11/7/11:

Solar Energy System (coastal).

A solar energy system that 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.

[Tentatively approved by the PC on 11/7/11. Adapted from Marin County Building Code Section 19.04.100.]

Alternative 1 (staff recommendation):

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, electric 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]

Alternative 2:

Solar Energy System (coastal).

A solar energy system consists of mechanical or electrical equipment for converting the energy of the sun to another form.

[Language proposed to Staff at the 11/7/11 hearing by a member of the public]

V. CHAPTER 22.66 – COASTAL ZONE COMMUNITY STANDARDS

At the hearing on November 7, 2011, staff recommended the Planning Commission review the most recent version of Chapter 22.66, which incorporates all changes made to date. The entirety of this section is shown below:

Sections:

- 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

22.66.010 - Purpose of Chapter

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.

22.66.020 - Applicability

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.

22.66.030 – Muir Beach Community Standards

- A. **Community character.** Maintain the small-scale character of Muir Beach as a primarily residential community with recreational, small scale visitor and limited agricultural ~~and very limited commercial~~ use (Land Use Policy C-MB-1).

22.66.040 – Stinson Beach Community Standards

- A. **Community character.** Maintain the existing character of residential, ~~and~~ small-scale commercial and visitor-serving recreational 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 to protect wildlife habitat (Land Use Policy C-SB-2).
- 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.
- 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)

Attachment #2
Proposed Development Code Amendments:
Wind Energy Conversion Systems (WECS) (Coastal)

At the 11/7/11 hearing, the Planning Commission (PC) voted in favor of implementing the countywide WECS Ordinance No. 3548 (see Attachment #3) in the Coastal Zone, with modifications to restrict total WECS height to 40 feet in areas west of Highway 1, and to 100 feet in areas east of Highway 1. This attachment provides the specific text for the proposed Development Code amendments necessary to implement the PC's request. It is divided into four parts: *Part One* (p. 1) provides proposed Section 22.32.190, which establishes specific land use standards for WECS (coastal); *Part Two* (p. 12) includes proposed new and modified definitions for Section 22.130.030; *Part Three* (p. 15) provides proposed Sections 22.62.090 and 22.64.045, which would establish the Coastal Scenic Corridor “-SC” Combining District; and *Part Four* (p. 20) reflects proposed changes to Tables 5-1-d, 5-2-b, and 5-3-a of Chapter 22.62 for consistency with proposed Section 22.32.190.

PART ONE:

Section 22.32.190 – Standards for WECS (coastal):

Staff recommends the following new Section 22.32.190 to establish specific land use standards for WECS in the Coastal Zone. These standards are based on Section 22.32.180, which applies to WECS in the inland area of the County. The coastal standards essentially duplicate those for the inland area, with modifications to implement specific height restrictions for the Coastal Zone and for consistency with the Local Coastal Program. The differences between Section 22.32.180 (non-coastal WECS) and proposed Section 22.32.190 (coastal WECS) are highlighted as follows:

- Section 22.32.190.A.1 has been restructured to provide better clarity of permit requirements for each type of WECS.
- References to zoning districts have been updated to appropriately reflect coastal zoning districts.
- References to permit requirements have been updated for consistency with the Coastal Permit process and the LCP.
- References to Large WECS have been modified or deleted as appropriate to reflect the WECS height restrictions specific to the Coastal Zone.
- References to the new proposed “Coastal, Scenic Corridor” Combining District have been added where appropriate to reflect specific WECS height restrictions for the area west of Highway 1.
- References to Meteorological Towers have been replaced with the broader category of Wind Testing Facilities.
- The Public Notice section (C) now references Section 22.70.050, which specifically applies to noticing for a Coastal Permit.
- Section D.1.a and G.9.a have been modified to include references to “Fully Protected species” per the request of the CCC (per 10/4/11 letter).
- Section D.1.c has been modified to refer to ESHAs rather than the WCA and SCA, which do not apply in the Coastal Zone.

- Section E.2 regarding visual impacts has been modified for consistency with the LCP (see LCP Policy C-DES-2, as modified by PC on 11/7/11).
- A new definition for WECS (coastal) has been proposed for the Coastal Zone, to be included in Section 22.130.030. Medium and Large WECS have been newly defined for the purpose of Section 22.32.190, to reflect WECS height restrictions in the Coastal Zone.

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.

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.

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

c. Small Freestanding WECS.

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

d. Medium Freestanding WECS (coastal).

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

e. Large Freestanding WECS (coastal).

- i. 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 approval in all coastal zoning districts.
3. **Time limits.** The approval for a Small WECS or Medium WECS (coastal) shall be for an indefinite period, except that an approval shall lapse if a Small or Medium 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 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 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	
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 Prominent Ridgeline²	Not Applicable	Not Applicable	Minimum of 300 feet horizontally or 100 feet vertically	Not Applicable	Minimum of 300 feet horizontally or 100 feet vertically

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 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 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 specifications provided by the manufacturer.
- G. Application submittal requirements.** Small WECS and Medium WECS (coastal) permit applications shall include, by 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 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 applications 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 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 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 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 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 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.

PART TWO:
Section 22.130.030 - Definitions:

Staff recommends the following new definitions for the purpose of new Sections 22.32.190 and 22.64.045, and amendments to Chapter 22.62 of the Development Code.

22.130.030 – Definitions of Specialized Terms and Phrases.

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.

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 (nonyclical) 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; (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. **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 have been temporarily installed to measure wind speed and directions and other data relevant to siting WECS.

Staff also recommends that the definition of “Special Purpose District or Zone” be amended as follows for consistency with proposed changes to Chapter 22.62:

S. Definitions, “S.”

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), and OA (Open Area); and by Section 22.62.030 (Coastal Zoning Districts Established), including the C-OAPF (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).

PART THREE:
Sections 22.62.090 and 22.64.045
Coastal Scenic Corridor “-SC” Combining District:

Although Section 22.62.030.D for Special Purpose and Combining Districts was included in the June 2011 LCP Public Review Draft, Section 22.62.090 to describe such districts was inadvertently left out. Staff recommends that Section 22.62.030 be modified as shown and that new Section 22.62.090 (proposed below) be added to the Development Code to address Coastal Special Purpose and Combining Districts, including the new Coastal, Scenic Corridor “-SC” Combining District. Staff also recommends adding new Section 22.64.045 as shown to establish standards for the new “-SC” district, which is proposed to implement the PC-approved height restrictions for WECS in the Coastal Zone.

Chapter 22.62 – Coastal Zoning Districts and Allowable Land Uses

Sections:

- 22.62.010 – Purpose of Chapter
- 22.62.020 – Applicability
- 22.62.030 – Coastal Zoning Districts Established
- 22.62.040 – Allowable Land Uses and Permit Requirements
- 22.62.050 – Coastal Zoning District Regulations
- 22.62.060 – Coastal Agricultural and Resource-Related Districts
- 22.62.070 – Coastal Residential Districts
- 22.62.080 – Coastal Commercial and Mixed-Use Districts
- 22.62.090 – Coastal Special Purpose and Combining Districts

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22.62.030 – Coastal Zoning Districts Established

The unincorporated areas of Marin County within the Coastal Zone shall be divided into zoning districts which consistently implement the Marin Countywide Plan and Marin County Local Coastal Program. The following coastal zoning districts are established, and shall be shown on the official Zoning Map (Section 22.06.030 (Zoning Map Adopted)).

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D. Special Purpose and Combining Districts

<u>Open Area</u>	<u>C-OA</u>
<u>Coastal, Public Facilities</u>	<u>C-PF</u>
<u>Coastal, Minimum Lot Size</u>	<u>B</u>
<u>Coastal, Scenic Corridor</u>	<u>SC</u>

...

22.62.090 – Coastal Special Purpose and Combining Districts

A. Purpose of Section. This Section provides regulations for development and new land uses in the coastal special purpose and combining zoning districts established consistent with Marin County Local Coastal Program policies by Section 22.62.030 (Coastal Zoning Districts Established).

B. Purpose and applicability of zoning districts.

1. General Applicability.

1. Special purpose districts. Special purpose zoning districts are intended to identify sites suitable for types of land uses that are substantially different from, or that may not be appropriate or cannot be readily accommodated along with, most land uses allowed within the other coastal agricultural, residential, and commercial zoning districts established by Section 22.62.030.

2. Combining districts. Combining districts are applied to property together with one of the other agricultural, residential, or commercial zoning districts, to highlight areas where important site, neighborhood, or area characteristics require particular attention in project planning.

i. The combining districts established by this Chapter provide standards that apply to development and new land uses in addition to those of zoning districts.

ii. The applicability of a combining district to property is shown by its map symbol established by Section 22.62.030 (Coastal Zoning Districts Established) being shown as a suffix to the symbol for the primary zoning district. A site designated within a combining district shall be subject to all applicable provisions of this Chapter, in addition to the requirements of the primary zoning district. If provisions of this Chapter conflict with any requirements of a primary zoning district, this Chapter shall control.

2. C-PF (Coastal, Public Facilities) Zoning/Combining District.

1. The Coastal Public Facilities “C-PF” zoning/combining district is applied to land in the Coastal Zone suitable for public facilities and public institutional uses, where a governmental, educational, or other institutional facility is the primary use of the site, in compliance with the Marin County Local Coastal Program. The C-PF district is consistent with the Public Facility and Quasi-Public Facility land use categories of the Marin County Local Coastal Program.

2. The C-PF district may be applied to property as a primary zoning district where the permitting authority determines that the facility is sufficiently different from

surrounding land uses to warrant a separate zoning district, and as a combining district where a publicly-owned site accommodates land uses that are similar in scale, character, and activities, to surrounding land uses.

3. B (Coastal, Minimum Lot Size) Combining District. See Section 22.64.040 (Coastal Minimum Lot Size (-B) Combining District) for the purpose and applicability of this district.

4. SC (Coastal, Scenic Corridor) Combining District. See Section 22.64.045 (Coastal Scenic Corridor (“-SC”) Combining District) for the purpose and applicability of this district.

C. Development standards for special purpose/combining districts. Proposed development and new land uses shall be consistent with the land use definitions in Article VIII, and shall comply with the provisions of Chapter 22.32 (Standards for Specific Land Uses) as applicable and all other applicable provisions of this Article.

Chapter 22.64 – Coastal Zone Development and Resource Management Standards

Sections:

- 22.64.010 – Purpose of Chapter
- 22.64.020 – Applicability
- 22.64.030 – General Site Development Standards
- 22.64.040 – Coastal Minimum Lot Size (-B) Combining District
- 22.64.045 – Coastal Scenic Corridor (-SC) Combining District**
- 22.64.050 – Biological Resources
- 22.64.060 – Environmental Hazards
- 22.64.080 – Water Resources
- 22.64.100 – Community Design
- 22.64.110 – Community Development
- 22.64.120 – Energy
- 22.64.130 – Housing
- 22.64.140 – Public Facilities and Services
- 22.64.150 – Transportation
- 22.64.160 – Historical and Archaeological Resources
- 22.64.170 – Parks and Recreation
- 22.64.180 – Public Coastal Access

22.64.010 - Purpose of Chapter

This chapter provides general standards for proposed development, site planning, and land use for the following coastal zoning districts: C-APZ (Coastal, Agricultural Production Zone), C-ARP (Coastal, Agricultural, Residential Planned), C-OA, (Coastal, Open Area), C-RA (Coastal, Residential, Agricultural), C-R1 (Coastal, Residential, Single-Family), C-RSP (Coastal, Residential, Single-Family Planned), C-RSPS (Coastal, Residential, Single-Family Planned, Seadrift Subdivision), C-R2 (Coastal, Residential, Two-Family), C-RMP (Coastal, Residential, Multiple Planned), C-VCR (Coastal, Village Commercial/ Residential), **and** C-H1 (Coastal, Limited Roadside Business), C-CP (Coastal, Planned Commercial), and C-RMPC (Coastal, Residential/Commercial Multiple Planned) zoning districts, and the -B (Minimum Lot Size) **and** **-SC (Coastal, Scenic Corridor)** combining districts.

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22.64.045 - Coastal Scenic Corridor (-SC) Combining District

A. Purpose. The Coastal Scenic Corridor “-SC” combining district is intended to establish design standards for specific land uses and new development that are different from those normally applied by the primary zoning district applicable to a site.

B. Development standards. Where the -SC combining district is applied, the following development standards shall be required:

1. Wind Energy Conversion System (WECS) (coastal). Where the –SC Combining District is applied, WECS (coastal) projects shall be limited to a maximum total height of 40 feet, instead of the height limits normally required by the primary zoning district. All WECS (coastal) projects shall remain subject to all other applicable standards of Section 22.32.190.

**PART FOUR:
CHAPTER 22.62 – Tables 5-1-d, 5-2-b and 5-3-a:**

Staff recommends that Tables 5-1-d (Section 22.62.060), 5-2-b (Section 22.62.070), and 5-3-a (Section 22.62.080) be amended as follows for consistency with proposed Section 22.32.190. Changes have also been made to incorporate “Solar Energy Systems,” consistent with proposed Section 22.32.161 (see Attachment #1). Modifications specific to WECS and solar are highlighted, while other tracked changes shown reflect changes already approved by the Planning Commission at previous hearings.

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

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
	C-APZ Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	
RESOURCE, OPEN SPACE USES				
Mineral resource extraction	U	U	—	Chapter 23.06
Nature preserves	U	P	P	
Water conservation dams and ponds	U	P	P	
Timber and tree production	U	U		23.04
Wind energy conversion systems (WECS), Small Roof-mounted	PP	PP	PP	22.32.1890
Wind energy conversion systems (WECS), Small Non-grid-tied Agricultural, <u>Small Freestanding, and Medium (coastal)</u>	P	P	P	22.32.1890
<u>Wind energy conversion systems (WECS), Small Freestanding</u>	P	P	P	22.32.180
<u>Wind energy conversion systems (WECS), Medium</u>	P	P	P	22.32.180
Wind energy conversion systems (WECS), Large <u>(coastal)</u>	P---	P---	---	22.32.1890
Water wells or septic systems to serve development on adjoining land	U	U	U	
<u>Solar energy systems (coastal), roof-mounted</u>	PP	PP	PP	22.32.161 22.42.055 (2)
<u>Solar energy systems (coastal), free-standing</u>	P	P	P	22.32.161
RETAIL TRADE USES				
Building materials stores	—	U	—	
Commercial storage and sale of garden supply products	U	U	—	
Sales of agricultural products	P(8,10)	P(8,10)	U	22.32.027

Bed and breakfast inns, 3 or fewer guest rooms	PP(10)	PP(10)	—	22.32.040 22.32.115
Bed and breakfast inns, 4 or 5 guest rooms	U(10)	U(10)	—	22.32.040 22.32.115
Child day-care centers	U	U	—	22.32.050
Child day-care - Large family day-care homes	U	U	—	22.32.050
Child day-care - Small family day-care homes	P	P	—	22.32.050
Cemeteries, columbariums, mausoleums	—	U	U	
Kennels and animal boarding	—	U	—	
Public safety/service facilities	U	U	U	
Public utility facilities	U	U	U	
Storage, accessory	P	P	P	
Veterinary clinics and animal hospitals	—	U	—	
Waste disposal sites	U	U	—	

KEY TO PERMIT REQUIREMENTS

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

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions)
- (2) See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses.
- (3) ~~See Chapter 22.44 (Master Plans and Precise Development Plans) for separate, non-coastal permit criteria for possible reduction to a lesser requirement entitlement.~~
- (4) Dairy operations allowed only on a site of 50 acres or larger.
- (5) Permit requirements are determined by Section 22.32.030 (Animal Keeping).
- (8) Only one single family dwelling per legal lot allowed (does not include intergenerational homes or agricultural worker housing). To create additional parcels and additional single-family homes, see also 22.86 (Subdivisions).
- (10) Only allowed when the primary use of the property is for agriculture; see Chapter 22.32.115 (Non-Agricultural Uses). The non-agricultural standards contained in Section 22.32.115 do not apply to C-ARP zoned properties with an assigned density of one unit per 1 – 5 acres.

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal) Permit Requirements.

**TABLE 5-2-b - ALLOWED USES AND PERMIT REQUIREMENTS FOR
COASTAL RESIDENTIAL DISTRICTS (Continued)**

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT						See Standards n Section:
	C-RA Residential Agri- cultural	C-R1 Single Family	C-R2 Two Family	C-RSPS Single Family Seadrift Sub- division	C-RSP Single Family Planned	C-RMP Multiple Planned	
RESOURCE, OPEN SPACE USES							
Nature preserves	P	P	P	P	P	P	
Wind energy conversion systems (WECS), Small Roof-mounted	PP	PP	PP	PP	PP	PP	22.32.1890
Wind energy conversion systems (WECS), Small Non-grid-tied Agricultural, Small Freestanding, and Medium (coastal)	PAU	PAU	PAU	PAU	PAU	PAU	22.32.1890
Wind energy conversion systems (WECS), Small Freestanding	P	P	P	P	P	P	22.32.180
Wind energy conversion systems (WECS), Medium	P	P	P	P	P	P	22.32.180
Wind energy conversion systems (WECS), Large (coastal)	—	—	—	—	—	—	22.32.190
Solar energy systems (coastal), roof-mounted	PP	PP	PP	PP	PP	PP	22.32.161 22.42.055 (2)
Solar energy systems (coastal), free-standing	P	P	P	P	P	P	22.32.161
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES							
Community centers	U	U	U	U	U	U	
Equestrian facilities	U	—	—	—	U	U	22.32.030
Horses, donkeys, mules, ponies	P(4)	P(4)	P(4)	—	U(4)	U(4)	22.32.030
Libraries and museums	U	U	U	U	U	U	
Private residential recreation facilities	U	U	U	U	U	U	
Public parks and playgrounds	U	U	U	U	U	P	
Public buildings	U	U	U	U	U	U	
Religious places of worship	U	U	U	U	U	U	
Schools	U	U	U	U	U	U	

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).
- (2) See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses.

- (3) ~~See Chapter 22.44 (Master Plans and Precise Development Plans) for separate, non-coastal permit criteria for possible reduction to a lesser requirement entitlement.~~
- (4) Permit requirement determined by Section 22.32.030 (Animal Keeping).
Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

TABLE 5-3-a - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL COMMERCIAL/MIXED-USE DISTRICTS

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT					See Standards in Section
	C-VCR Village Commercial Residential	C-HI Limited Roadside Business	C-CP Planned Commercial	C-RMPC Residential Commercial Multiple Planned	C-RCR Resort and Commercial Recreation	
AGRICULTURAL, RESOURCE & OPEN SPACE						
Agricultural production	P	P	P	P	—	
Commercial gardening	P	P	P	P	—	
Mariculture/aquaculture	P	P	P	P	—	22.32.105
Plant nurseries, with or without on-site sales	P	P	P	P	—	
Wind energy conversion systems (WECS), non commercial	P/U	P/U	P/U	P/U	U	22.32.180
Wind energy conversion systems (WECS), Small Non-grid-tied Agricultural, Small Freestanding, and Medium (coastal)	P	P	P	P	P	22.32.190
Wind energy conversion systems (WECS), Large (coastal)	---	---	---	---	---	22.32.190
Solar energy systems (coastal), roof-mounted	PP	PP	PP	PP	PP	22.32.161 22.42.055 (2)
Solar energy systems (coastal), free-standing	P	P	P	P	P	22.32.161
MANUFACTURING & PROCESSING USES						
Beverage production	U	—	U	U	—	
Boat manufacturing and sales	U	—	U	U	—	
Cottage Industries	U	---	---	U	---	22.32.060
Food products	U	U	U	U	—	
Furniture and fixtures	U	—	U	U	—	
Laundries and dry cleaning plants	U	—	U	U	—	
Recycling facilities	U	U	U	U	P	
Recycling - Reverse vending machines	P	P	P	P	P	
Seafood processing and sales	U	—	U	U	—	

KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirements	Procedure is in Section:
PP	Principal permitted use	
P	Permitted use. (2)	
U	Conditional use, Use Permit required. (2)	Chapter 22.48
—	Use not allowed. (See 22.02.020.E regarding uses not listed.)	

Notes:

- (1) Listed land uses must be consistent with definitions in Article VIII (Development Code Definitions).
- (2) See Chapter 22.42 (Design Review) for separate, non-coastal permit Design Review requirements for all uses.
- (3) ~~See Chapter 22.44 (Master Plans and Precise Development Plans) for separate, non-coastal permit criteria for possible reduction to a lesser requirement entitlement.~~

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

Attachment #3
Wind Energy Conversion Systems (WECS) (coastal)
Permit Requirements consistent with proposed Section 22.32.190 (see Attachment #2)

Land Use	Permit Requirements by District													
	Coastal Agricultural & Resource-Related Districts			Coastal Residential Districts						Coastal Commercial/Mixed-Use Districts				
	C-APZ Agricultural Production	C-ARP Agricultural Residential Planned	C-OA Open Area	C-RA Residential Agricultural	C-R1 Single Family	C-R2 Two Family	C-RSPS Single Family Seadrift	C-RSP Single Family Planned	C-RMP Multiple Planned	C-VCR Village Commercial Residential	C-H1 Limited Roadside Business	C-CP Planned Commercial	C-RMPC Residential Commercial Multiple Planned	C-RCR Resort and Commercial Recreation
WECS, Small Roof-mounted (max height = 10' above roof line)	PP	PP	PP	PP	PP	PP	PP	PP	PP	PP	PP	PP	PP	PP
WECS, Small Non-grid-tied Agricultural (max height = 100' above grade) ¹	P	P	P	P	P	P	P	P	P	P	P	P	P	P
WECS, Small Freestanding (max height = 40' above grade)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
WECS, Medium (height = 40' to 100' above grade) ²	P	P	P	P	P	P	P	P	P	P	P	P	P	P
WECS, Medium (coastal) (height = 100' to 200' above grade)	---	---	---	---	---	---	---	---	---	---	---	---	---	---
WECS, Large (coastal) (height = greater than 200' above grade)	---	---	---	---	---	---	---	---	---	---	---	---	---	---

Coastal Planned Districts (grey): C-APZ, C-ARP, C-RSP, C-RSPS, C-RMP, C-CP, C-RMPC, and C-RCR

Coastal Conventional Districts (yellow): C-OA, C-RA, C-R1, C-R2, C-VCR, C-H1

¹ All WECS projects shall be limited to a maximum total height of 40 feet above grade in the Coastal Scenic Corridor (-SC) Combining District.