

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: 5
Hearing Date: January 23, 2012
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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 eighth 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:

- Biological Resources;
- Environmental Hazards;
- Water Resources; and
- Major Vegetation Removal.

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 last hearing date of February 13, 2012 has been scheduled for the Commission to adopt a recommendation on the LCP Public Review Draft to the Board of Supervisors.

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
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** 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 provides recommendations to carryover and discussion items in Biological Resources, Environmental Hazards, Mariculture, and Water Resources. Revisions include, among others, revisions to the Biological Resources and Environmental Hazards introductory background section, and modifications to policies in Biological Resources regarding environmentally sensitive habitat areas and grazing in wetlands. Also proposed are policy modifications to clarify the intent and application of Environmental Hazard and Water Resource policies, and recommended changes to PRD IP Section 22.68.050.A.2 regarding impervious paving.

Attachment #2 pertains to a carryover item from the December 1, 2011 PC hearing regarding vegetation removal in the Coastal Zone, and comments received from Woody Elliott and the Inverness Association regarding PRD LCP policies that protect sensitive habitat areas and the requirements of Public Resource Code 4291-4299 and Marin County Code Chapter 22.17 that require the management of vegetation to reduce the risk of fire. Proposed are modifications to the PRD that include revising the definition of “major vegetation,” along with new policies, programs, and revisions to the PRD IP to minimize risks to life and property, and to avoid adverse impacts to ESHAs, coastal waters, and public views.

Attachment #3 contains an excerpt from Public Resource Code Section 4291-4299 regarding required vegetation clearance on private lands and near public utility electrical transmission lines and pertains to the discussion of vegetation removal in the Coastal Zone in Attachment #2.

Attachment #4 contains an excerpt from Marin County Code Chapter 16.17 regarding Marin County requirements for fire prevention and pertains to discussion of vegetation removal in the Coastal Zone in Attachment #2.

Attachment #5: contains Sudden Oak Death Pictures and maps showing the area of infestation and extent of tree mortality in the Coastal Zone. Pictures were provided from www.suddenoakdeath.org and the UC Cooperative Extension and pertain to discussion of vegetation removal in the Coastal Zone in Attachment #2.

Attachment #6 contains maps that show the Wildland Urban Interface (WUI) areas in the Coastal Zone, and the reported locations of special-status species from the California Natural Diversity Database (CNDDB) and pertains to discussion of vegetation removal in the Coastal Zone in Attachment #2.

Attachment #7 is a list of special-status species in in the WUI area from the CNDDB maps and serves as background material for Attachment #2.

Attachment #8 is the SRWQCBSF Staff Report for the meeting date of June 8, 2011 regarding grazing operations in Tomales Bay Watershed and the status on the Waiver of Waste Water Discharge Requirements, which is referenced in Attachment #1 in the Water Resources introductory background section.

Attachment #9 contains MCC Chapter 22.62 – Tree Removal Permits, recently approved by the Board of Supervisors on December 15, 2012, and pertains to discussion of vegetation removal in 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, February 13, 2012.

ATTACHMENTS:

1. Recommended changes to carryover and other discussion items
2. Vegetation removal in the Coastal Zone
3. PRC Section 4291-4299
4. Marin County Code Chapter 16.17
5. West Marin Sudden Oak Death Pictures and Map of Infestation
6. West Marin Wildland Urban Interface and CNDDDB Maps
7. List of special-status species from West Marin CNDDDB Maps
8. SRWQCBSF Staff Report
9. MCC Chapter 22.62 approved by the BOS on 12/15/11

ATTACHMENT 1: RECOMMENDED CHANGES TO CARRYOVER AND OTHER DISCUSSION ITEMS

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I. NATURAL SYSTEMS AND AGRICULTURE

A. Biological Resources (BIO)

1. Biological Resources Chapter - Background

At the 12/1/11 hearing, the Planning Commission approved staff's recommendation to revise the Background section for Biological Resources as proposed in the staff report, and asked that it be further modified to:

- Confirm that PRBO is still "home" to PRBO, as referenced in paragraph 10; and
- Incorporate information about non-water resources, the Pacific Flyway, and other significant resources per comments made by Community Marin and the Marin Audubon Society in their November 30, 2011 letters.

Accordingly, staff proposes the following revisions (new text highlighted):

Biological Resources - Background:

The Marin County Coastal Zone contains a broad range of estuarine and marine environments, tidal marshes, freshwater wetlands, stream corridors, upland forests, chaparral, and grasslands.

Much of the Coastal Zone in Marin County is managed by the National Park Service, California Department of Parks and Recreation, and California Department of Fish and Game. These agencies place a high priority on resource stewardship along with serving recreation purposes. Various State and federal laws and regulations govern the definition and protection of biological resources, including the State and federal Endangered Species Acts and the federal Migratory Bird Treaty Act.

Despite a wealth of protections, biological resources remain vulnerable. Land development, if not well-planned and executed, can result in degradation of resources through loss or fragmentation of wildlife habitat, filling of crucial wetlands, and displacement of plant communities.

The Coastal Act places a high priority on the protection of biological resources. Strict limits are placed on development in environmentally sensitive habitat areas. The Act defines such areas to encompass habitats that are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. In general, only land uses that are dependent on the habitat resources are allowable within environmentally sensitive habitat areas.

Wetlands are one class of environmentally sensitive habitat area and in California approximately 92 percent of our wetlands have been lost. The Coastal Act defines wetlands broadly and addresses both areas of substantial size, such as Bolinas Lagoon, and smaller, isolated wetlands, such as those formed by seeps or springs. Very limited types of development are allowed in wetlands and then only where there is no feasible less environmentally damaging alternative and feasible mitigation measures have been adopted.

Streams are another type of environmentally sensitive habitat area. Many species of animals and plants are dependent on them and on their associated riparian corridors,

which are especially valuable as habitat connectors. The Coastal Act allows very limited types of development within streams, including necessary water supply projects, flood control projects, and habitat improvement projects.

Other sensitive biological resources in the County's coastal zone include dunes and beaches, salt marshes, fresh water marshes, tidal freshwater wetlands, riparian corridors, chaparral, and grasslands which are fragile habitats that are easily disturbed, as well as communities of rare plants, and essential habitats for protected species of fish and wildlife such as Snowy Plover (*Charadrius alexandrinus nivosus*), Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*), California red-legged frog (*Rana draytonii*) and Central California coast steelhead (*Oncorhynchus mykiss*). This list is not exhaustive, but is meant to highlight those habitats that are prevalent in the Coastal Zone (see Map 5 – Vegetation, Map 6 – Special-status Species and Sensitive Natural Communities, and Map 7 – Wetlands and Streams).

The biological resources of Marin County include unique habitat areas that support wildlife and plants that maintain the function and integrity of the ecosystem. These areas not only serve an important ecological function, but they also have an intrinsic and aesthetic value to residents and visitors. The ecological importance of these areas has been recognized, such as the special designation of Bolinas Lagoon and Tomales Bay, as "Wetlands of International Significance" by the Convention on Wetlands of International Importance, called the Ramsar Convention. This intergovernmental treaty provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. Bolinas Lagoon received its recognition on September 1, 1998 and Tomales Bay on September 30, 2002.

Bolinas Lagoon and Tomales Bay are part of a larger, relatively undisturbed complex of wetlands along the Marin/Sonoma coast that includes Drakes and Limantour Esteros, Abbotts Lagoon, Estero Americano, Estero de San Antonio, and Bodega Harbor. Tomales Bay, Bolinas Lagoon, and the waters along much of the County's ocean shoreline are also part of the Gulf of the Farallones National Marine Sanctuary. The area is within the Pacific flyway and supports approximately 20,000 wintering shorebirds, seabirds, and waterbirds both seasonally and year-round. Subtidal areas and extensive mudflats support diverse populations of invertebrates and provide nursery and feeding habitat for resident and migratory fish, while steelhead and coho salmon move through the lagoon to access streams in the watershed.

In Tomales Bay the eelgrass beds occur within the shallow waters at the northern end of the bay and are critical for particular species of migratory birds, and for fish species such as Pacific herring. The rocky points, intertidal areas, and shoreline substrate in Tomales Bay provide habitat for many distinct invertebrate communities. The wetlands areas in Tomales Bay also serve as corridors to valuable spawning nurseries for the Coho salmon and Steelhead. Estero Americano and Estero de San Antonio are "seasonal estuaries" and their unique morphology result in a fjord-like quality of the esteros which is not found in other California wetlands and results in a wide variety of species diversity and habitats.

The Coastal Zone also includes unique terrestrial habitats such as serpentine grasslands, chaparral habitat that contain endemic plants such as Mount Tamalpais Manzanita (*Arcostaphylos hookeri montana*), and coastal terrace prairie grasslands. In California there has been a loss of 99% of native grasslands which offer valuable foraging and dispersal habitat for many wildlife species. The coastal dune communities provide habitats for several species of plants and animals that have adapted to the harsh environment of the shoreline and provide protection to inland areas from wave run-up generated by prolonged storms and high seas. The list of unique species and habitats of the Coastal Zone is extensive, which is evident in the amount of literature and research

that has been produced in the region, as highlighted in the 1980 Marin County Local Coastal Programs, Unit I and Unit II.

In 1980, the Marin County Local Coastal Program, Unit I and Unit II were certified by the State Coastal Commission. The original plans contain important information regarding the natural resources, geology, and historical development of the Coastal Region. This plan is a continuation of the direction and foundation of knowledge established in the original plans. Since approval of the original LCPs, certain programs have been completed and new knowledge gained; yet, there is still much more to learn. The policies in this Chapter are based on the foundation of the original LCP's commitment to conservation and protection of our biological resources, while providing for development that is allowed under the Coastal Act and preserving the function and values of these areas. These policies are to be implemented in light of the best available science, including reports, studies, or plans that are now available or may be available in the future regarding environmental findings, such as:

- Bolinas Lagoon Ecosystem Restoration Project: Recommendations for Restoration and Management, Gulf of the Farallones National Marine Sanctuary Advisory Council, Bolinas Lagoon Restoration Project Working Group, 2008;
- Fisheries Assessment for Bolinas Lagoon Tributaries within the Golden Gate Area, Golden Gate National Park Service, 2002;
- Projecting the Future Evolution of Bolinas Lagoon, Marin County Open Space District, 2006; and
- Tidal Marsh Birds of the San Francisco Bay Region, Status, Distribution and Conservation of 5 Category 2 Taxa, USGS, 1997.

Implementation of the Local Coastal Program is carried out, in part, through the use of mapped data. Maps of biological resources, including special status species, wetlands, and streams, are included in the LCP document. While these maps are important indicators of the presence of significant resources that require protection under LCP policies, additional information regarding such resources will become available through site-specific review of proposed projects, through future map updates, and through other means. Thus, protection of biological resources is not limited to those that are mapped in this document. Furthermore, LCP policies address areas adjacent to environmentally sensitive habitat areas and parks and recreation areas, and as knowledge about those areas increases or as park boundaries change through land acquisitions, the LCP policies will be applied accordingly.

This region is also home to nonprofit research organizations and institutions such as the Audubon Canyon Ranch and PRBO Conservation Science (formerly the Point Reyes Bird Observatory) Palomarin Field Station and Wetland Center that actively contribute to the growing body of research on conservation science which can be used to address problems related to watershed protection, habitat management, recreational pressures, invasive species, and other coastal management issues and these databases of knowledge should be included in relevant discussion related to environmentally sensitive habitat areas.

Marin County's biological resources are intertwined with villages, farms, homes, and roads. Local Coastal Program policies are designed to support the protection and enhancement of biological resources, while the activities of coastal residents and visitors continue to flourish.

2. Policy C-BIO-3 Environmentally Sensitive Habitats of Rare or Endangered Species and Unique Plant Communities

At the 12/1/11 hearing the PC approved staff's recommendation to delete Policy C-BIO-3, but asked that the last two sentences (highlighted) be carried forward and incorporated into another policy where appropriate in the draft LCP. Staff recommends that they be moved to Policy C-BIO-1, Item 2 as shown below.

~~**C-BIO-3 Environmentally Sensitive Habitats of Rare or Endangered Species and Unique Plant Communities.**~~ Environmentally sensitive habitats include habitats of rare or endangered species and unique plant communities. Permit development in such areas only when it depends upon the resources of the habitat area and does not significantly disrupt the habitat. Development adjacent to such areas shall be set back a sufficient distance and designed to minimize impacts on the habitat area. Control public access to sensitive habitat areas, including the timing, intensity, and location of such access, to minimize disturbance to wildlife. Avoid fences, roads, and structures that significantly inhibit wildlife movement, especially access to water

C-BIO-1 Environmentally Sensitive Habitat Areas.

1. An **environmentally sensitive habitat area (ESHA)** ~~means~~ is any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.
2. Protect environmentally sensitive habitat areas against disruption of habitat values, and only allow uses within those areas that are dependent on those resources. Disruption of habitat values occurs when the physical habitat is significantly altered or when species diversity or the abundance or viability of species populations is reduced. The type of the proposed development, the particulars of its design, and location in relation to the habitat area, will affect the determination of disruption. Control public access to sensitive habitat areas, including the timing, intensity, and location of such access, to minimize disturbance to wildlife. Avoid fences, roads, and structures that significantly inhibit wildlife movement, especially access to water.
3. In areas adjacent to environmentally sensitive habitat areas and parks and recreation areas, site and design development so as to prevent impacts that would significantly degrade those areas, and to be compatible with the continuance of those habitat and recreation areas.

3. Policy C-BIO-4 Alteration of Land Forms

At the 12/1/11 hearing the PC received comments from the public regarding the removal of vegetation in the Coastal Zone and concerns with the Coastal Permit requirement of this policy. The PC requested that staff revise Policy C-BIO-4 to clarify the difference between the alteration of land forms and the removal of major vegetation. Discussion of this policy and staff's recommendations are located in Attachment #2.

4. Policy C-BIO-14 Wetlands

At the 12/1/11 hearing, the PC approved staff's recommended changes to Policy C-BIO-14 but asked staff to clarify the meaning of "presently" as used in the last sentence of the policy, and bring back to the PC with details concerning its applicability and how it would be enforced.

The language "presently used for such activities" is from the existing LCP, Unit II Natural Resources policy 4 A through C, page 74. Staff recommends that this language be interpreted to include lands where there is historical evidence that it has been grazed prior to the certification of the revised Local Coastal Program. In addition, staff recommends that new language be added that allows for grazing when undertaken in compliance with policies of the California Regional Water Quality Control Board under an approved grazing land ranch plan, or in conjunction with a partnership with the Marin Resource Conservation District or the University of California Agriculture and Natural Resources Cooperative Extension. Accordingly, staff recommends that Policy C-BIO-14 be further revised as follows:

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

1. Permit diking, filling, and dredging of wetlands only in conformance with the policies contained in Policy C-BIO-16. Prohibit filling of wetlands for the purposes of residential development.
2. Allow certain resource-dependent activities in wetlands including fishing, recreational clamming, hunting, nature study, bird watching and boating.
3. Prohibit grazing or other agricultural uses in a wetland, except in those reclaimed areas presently (prior to the certification of this amended policy on [date]) used for such activities, or in areas where a grazing land ranch plan has been approved by the California Regional Water Quality Control Board, or where the landowner has partnered with the Marin Resource Conservation District or the University of California Agriculture and Natural Resources Cooperative Extension for the development and implementation of management measures to prevent adverse impacts to wetland functions and resources.

B. Environmental Hazards (EH)

1. Environmental Hazards Chapter - Background

At the 12/1/11 hearing, the Planning Commission approved staff's recommendation to revise the Background section for Environmental Hazards and requested that staff further revise the text to shorten the section and eliminate redundancies. Accordingly, staff proposes the following revisions:

Environmental Hazards - Background:

Marin County's shoreline, like all of California's coast, is a highly dynamic place. The coast is subject to forces that include shoreline erosion, storms and waves, long-term sea level rise, tsunamis, and potential seismic events, all of which represent hazards for both existing and new development (see Maps 9 – 14). Coastal zone development, whether located at sea level, on a bluff, or farther inland, is vulnerable to one or more of these hazards.

Significant portions of California's coastline have been armored with rock revetments, seawalls, or other shoreline protective devices. Marin County's shoreline includes relatively few such devices, but shoreline armoring is not absent from the County's coastal zone. Although shoreline protective devices may offer protection to existing homes and other structures from ocean waves and storms, the devices can have negative impacts on recreational beach uses, scenic resources, and the natural supply of sand to other shoreline areas.

Sea level rise is expected to lead to increased erosion, loss of coastal wetlands, permanent or periodic inundation of low-lying areas, increase in coastal flooding, and salt water intrusion into stormwater systems and aquifers. Structures located along bluffs susceptible to erosion and in areas that already flood during high tides will likely experience an increase in these hazards from accelerated sea level rise. ~~Global s~~Sea level rise ~~also threatens the safety of coastal residents and visitors and the integrity of coastal developments, including roads and other infrastructure (see Map 15 - Sea Level Rise). Coupled with storms or seismic events, sea level rise poses ever great hazards for the future. As the value of homes and other coastal development has risen, the expectation of owners to maintain their investment has taken on an increasingly long horizon. Thus, the need to assure that new development is as safe as possible from natural hazards only continues to grow. While shoreline protective devices may be appropriate in some instances, they can adversely affect the shoreline, particularly if poorly designed.~~

Coastal Act policies provide that new development shall minimize risks to life and property in hazardous areas. Furthermore, new development shall assure stability and structural integrity and not create or contribute significantly to geologic instability or other hazards. Coastal Act policies recognize that shoreline protective devices are appropriate in certain instances, to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion. ~~Under the Coastal Act, s~~Such devices, however, must be designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Local Coastal Program policies would enhance the safety of residents and visitors in potentially hazardous areas, while allowing carefully designed and sited development to proceed. The LCP acknowledges the threat of sea level rise and supports appropriate responses, while recognizing that sea level rise is a global rather than a purely local issue. ~~Although a global phenomenon, t~~The impacts of seal level rise will vary according to local factors, such as shoreline characteristics, land movement driven by plate tectonics, and local wind patterns. Strategies to reduce impacts are most appropriately designed and implemented at the local level

2. Policy C-EH-13 Shoreline Protective Devices

At the 12/1/11 hearing, the Planning Commission approved staff's recommended modifications to Policy C-EH-13 and further requested that staff revise the policy to incorporate suggestions from California Coastal Commission staff to add language "to authorize shoreline protection devices for 20 years only". Accordingly, staff proposes the addition of item 8 as shown below.

C-EH-13 Shoreline Protective Devices. Discourage shoreline protective devices (i.e., shoreline armoring) in the Coastal Zone due to their visual impacts, obstruction of public access, interference with natural shoreline processes and water circulation, and effects on marine habitats and water quality.

Allow the construction or reconstruction of a shoreline protective device, including revetments, breakwaters, groins, seawalls, or other artificial structures for coastal erosion control, only if each of the following criteria is met:

1. The shoreline protective device is required to serve a coastal-dependent use or to protect a principal structure, residence, or second residential unit in existence prior to the adoption of the Local Coastal Program (May 13, 1982) or a public beach in danger from erosion.
2. No other non-structural alternative, such as sand replenishment, beach nourishment, or managed retreat is feasible.
3. The condition causing the problem is site specific and not attributable to a general erosion trend, or the project reduces the need for a number of individual projects and solves a regional erosion problem.
4. It can be shown that a shoreline protective device will successfully eliminate or mitigate its effects on local shoreline sand supply and that the device will not adversely affect adjacent or other sections of the shoreline.
5. The shoreline protective device will not be located in wetlands or other significant resource or habitat area, and will not cause significant adverse impacts to fish or wildlife.
6. There will be no reduction in public access, use, or enjoyment of the natural shoreline environment, and construction of a shoreline protective device will preserve or provide access to related public recreational lands or facilities.
7. The shoreline protective device will not restrict navigation, mariculture, or other coastal use and will not create a hazard in the area in which it is built.
8. The shoreline protective device is authorized for a period of twenty years from the date of approval. Maintenance beyond the twenty-year period, modification, or expansion of the approved device shall require approval of an amendment to the Coastal Permit.

C. Mariculture (MAR)

1. C-MAR-2 Mariculture in the Parks

At the 12/1/11 hearing, the Planning Commission requested that staff review existing mariculture operations in parks and consider deleting Policy C-MAR-2 if appropriate.

Policy C-MAR-2 was adapted from an existing LCP Unit II Federal Parklands policy, which states that existing mariculture operations in the parks are encouraged and should be permitted to continue. At the time the existing LCP was prepared, mariculture operations in parklands included two leases within the Point Reyes National Seashore, one on the west side of Tomales Bay (Spengers) and one within Drake's Estero (Johnson Oyster Company). Since then, a third mariculture lease, formerly on private lands (Jensen's Oysters), has come under ownership of the GGNRA (although it appears to no longer be in operation). Mariculture operations and lease holdings on federal lands are not directly affected by Marin County's Local Coastal Program. However, the LCP would serve as guidance to the Coastal Commission if they were to review a federal consistency item regarding a maricultural operation in federal parklands. Given the high priority provided for mariculture use in the Coastal Act, staff recommends that this carryover policy from the existing LCP remain as approved by the Planning Commission on March 8, 2010.

C-MAR-2 Mariculture in Parks. Existing maricultural operations in the parks are encouraged in a manner compatible with natural resource protection and should be permitted to continue. Additional mariculture activities should be considered, provided that they are compatible with other park uses, and do not conflict with public access, recreation, the protection of natural and visual resources, water quality, or National Park Service policies concerning commercial development. New mariculture activities should be subject to permit review by the Coastal Commission.

D. Water Resources (WR)

1. Water Resources Chapter - Background

At the 12/1/11 hearing, the Planning Commission requested that staff incorporate into the Background suggestions made by Community Marin in their letter of 11/30/11. Accordingly, staff proposes the following revisions (new text highlighted):

Water Resources – Background:

Coastal residents and visitors depend on healthy watersheds, as do wildlife and plant communities. Drinking water in the Marin County Coastal Zone comes from local springs, streams, and wells. Wildlife depends on uncontaminated water sources for healthy growth and reproduction. Coastal visitors provide significant economic benefits to coastal communities and are drawn by the unspoiled nature of the County's resources, including its lakes, streams, bays, and other waters (see Map 8 – Major Watersheds).

Past and present development practices and land uses have created adverse impacts to water quality and water resources. Tomales Bay, Walker Creek, and Lagunitas Creek have been designated by the State Water Resources Control Board as impaired water bodies, based on the presence of pollutants such as sediments and nutrients. Other

pollutants, such as oil, grease, and heavy metals, are also present in the watersheds of the Coastal Zone. Land development and construction activities are key contributors to sedimentation and nutrient inputs to coastal waterways, and consequently land use regulations are an important way of reducing those pollutants. Furthermore, sewage disposal methods may contribute to nutrient loads in waterways, and parking and transportation facilities can contribute oil, grease, and heavy metals to coastal waters.

The predominant land use in the coastal zone is agriculture. Stormwater discharges from poorly managed grazing operations may contain pathogens, ammonia, salts, and excess sediment. The State and Regional Water Quality Control Boards regulate various aspects of agricultural wastewater management, and a variety of programs are available for ranchers to minimize impacts on water quality. The San Francisco Bay Regional Water Quality Control Board received a status report in June 2011 (see Attachment 8) that shows that substantial progress was being made in implementation of the Tomales Bay Watershed Grazing Waiver. The Grazing Waiver implements the Tomales Bay Pathogen Total Maximum Daily Load (TMDL) and the Walker Creek Mercury TMDL, adopted by the Regional Board, and the State Water Board's Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program. The goals of the Grazing Waiver are to improve and protect water quality and biological resources while promoting sustainable grazing. According to the report to the Regional Board, nearly all active grazing lands in the Tomales Bay watershed are now covered by the Grazing Waiver. A partnership of entities in the watershed is providing valuable compliance assistance to ranchers, and grant and contract funds have been awarded to assist the ranchers.

Upstream diversions, some of them outside the coastal zone, of coastal streams such as Lagunitas Creek have reduced vital freshwater inflows to both Tomales Bay and Bolinas Lagoon. Malfunctioning septic systems form a source of pollution for coastal waters.

The Coastal Act mandates protection and, where feasible, the restoration of biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health. In January 2000, the Coastal Commission, along with the State Water Resources Control Board, adopted the Nonpoint Source Program Strategy and Implementation Plan 1998-2013. The Plan states that nonpoint source pollution is the leading cause of water quality impairment in California and elsewhere in the nation, and that land use activities are a primary contributor to nonpoint source pollution in California. The Coastal Commission has emphasized the incorporation of land use measures into Local Coastal Programs to address the impacts of polluted runoff and to protect coastal water quality.

The Local Coastal Program (LCP) aims to improve the protection of coastal waters by addressing all phases of development, including design, construction, and post-construction maintenance of facilities. LCP policies would incorporate the concept of Best Management Practices, in order to acknowledge continuing improvements in technology and development practices.

2. Policy C-WR-2 Water Quality Impacts of Development Projects

At the 12/1/11 hearing, the Planning Commission approved staff's recommended changes to Policy C-WR-2, with the exception to the reference to LID techniques in paragraph two. The Commission requested that staff revise this reference to be consistent with the Coastal Commission's suggestion that LID techniques should be applied where appropriate, but not necessarily required in all cases.

The intent of Policy C-WR-2 is to establish a broadly applicable goal to address polluted runoff in developments both large and small. Furthermore, the policy ensures the inclusion of Best Management Practices (BMPs), with an emphasis on site and design measures that avoid pollutant discharges in the first place, as opposed to treatment measures that attempt to “clean up” discharges. Among the BMPs that may be appropriate for a given project are what are known as “Low Impact Development” (LID) techniques. Examples of LID techniques are protecting areas from sediment loss and erosion and retaining runoff on-site, where feasible. The proposed revisions shown below clarify that the range of potential Best Management Practices includes, but is not limited to, Low Impact Development techniques. Furthermore, appropriate BMPs include “permanent” measures that need to be designed into the project from the outset. Finally, selected edits are proposed to improve the clarity and readability of the policy.

Policy C-WR-2 Water Quality Impacts of Development Projects. Site and design public and private development and changes in use or intensity of use to prevent, reduce, or remove pollutant discharges and to minimize increases in stormwater runoff volume and rate to prevent flooding and increased erosion and sedimentation to the maximum extent practicable. All coastal permits, for both new development and modifications to existing development, and including but not limited to those for developments covered by the current National Pollutant Discharge Elimination System (NPDES) Phase II permit, shall be subject to this review. Where required by the nature and extent of a proposed project and where deemed appropriate by Public Works County staff, projects subject to this review shall have a plan which addresses both temporary (during construction) and permanent (post-construction) measures to control erosion and sedimentation, to reduce or prevent pollutants from entering storm drains, drainage systems and watercourses, and to minimize increases in stormwater runoff volume and rate.

Permanent Best Management Practices (BMPs) that protect water quality and minimize increases in runoff volume and rate shall be incorporated in the project design of developments. and shall include Low Impact Development (LID) techniques. The goal of LID is to reduce runoff and mimic a site's pre-development hydrology by minimizing disturbed areas and impervious cover and then infiltrating, storing, detaining, evapotranspiring, and/or biotreating stormwater runoff close to its source. Site design and source control measures shall be given high priority as the preferred means of controlling pollutant discharges and runoff volume and rate. Typical measures shall include:

1. Minimizing effective impervious area;
2. Limiting site disturbance; of natural drainage features and vegetation;
3. Protecting areas that are particularly susceptible to erosion and sediment loss, and ensuring that water runoff beyond natural pre-project levels is retained on-site whenever possible, and using other Low Impact Development (LID) techniques; and
4. Methods that reduce potential pollutants at their sources and/or avoid entrainment of pollutants in runoff, Such methods include scheduling construction based on time of year, prohibiting erosion-causing practices, and implementing maintenance and operational procedures. including schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices. Examples include are covering outdoor storage areas, usage of efficient irrigation, and minimizing the use of landscaping chemicals.

3. Policy C-WR-3 Storm Water Runoff

At the 12/1/11 hearing, the Planning Commission discussed Policy C-WR-3 and raised questions that include: (a) the appropriate “design storm” that should be referred to in Policy C-WR-3 (as well as Policy C-WR-14 and related Development Code provisions), and (b) the basis for the 1-acre of impervious surface “threshold” as contained in the staff recommendation for the Dec. 1 hearing. The 1-acre threshold stems from the applicable National Pollutant Discharge Elimination System (NPDES) permit, which addresses urbanized areas where development of 1 acre of paving or impermeable surface is relatively common, as well as West Marin, where most new developments are generally of a smaller scale.

To address these concerns, the policy as recommended below includes “design storms” of 2 and 10-year intensity, and the same parameters are addressed in other LCP provisions, as described below. Water quality measures that address storm water runoff from a project site are intended primarily to protect against downstream erosion along streams. Such erosion contributes sediment to waterways such as Tomales Bay and Bolinas Lagoon, thereby impairing water quality. Over time, it is the small frequent storms that cause most erosion and contribute the most sediment, and therefore such storms are the focus of Water Resource policies such as Policy C-WR-3. Very large and infrequent storms, of course, can cause massive effects, including bank erosion and even a change in a channel’s course. But the impacts of such large events may be beyond human control, and in any event, by definition they occur rarely. Therefore, the most effective regulatory approach is to address the erosive effects of smaller, more frequent storms, specifically those of 2 and 10-year intensity, and to ensure that new development is undertaken so as to ensure that such storms do not contribute to water quality impairment.

It should be noted, by contrast, that flood control measures appropriately address very large and relatively infrequent events, such as a 100-year storm. The focus of flood control measures on protecting public safety and infrastructure is somewhat different than the focus of water quality policies that are aimed at minimizing downstream erosion.

In the revised policy that follows, the threshold for projects with impervious surfaces that would need to incorporate appropriate drainage controls in all cases is proposed to be 10,000 square feet, rather than 1 acre, as was discussed at the PC hearing on Dec. 1, 2011. The State Water Resource Control Board is currently in the process of revising stormwater permits applicable to various Bay Area counties. Based on draft proposals for such stormwater permits and on comments received previously from various water quality professionals, it appears that a 10,000-square-foot threshold for hydromodification management, rather than a 1-acre threshold, is most likely to be applied in stormwater permits. Therefore, the 10,000-square-foot threshold is incorporated in the policy that follows.

As proposed below, the 10,000 square-foot threshold would apply both to one structure’s impermeable surface, as well as to the cumulative extent of impermeable surface created by, for instance, several buildings proposed under one coastal permit application. For instance, a project resulting in a subdivision into several parcels, with construction of roads and buildings, would be addressed by the 10,000-square-foot threshold. Finally, note that projects of even smaller scale are also addressed by the policy under the first phrase, which requires drainage controls for projects of any scale where they have the potential to accelerate erosion or affect beneficial uses downstream.

Policy C-WR-3 Storm Water Runoff. Where a project would add or create a total of 10,000 square feet of impervious surface or where altered or increased flows from a project site have the potential to accelerate erosion or affect beneficial uses downstream, incorporate drainage controls so that the post-project peak flow and velocity of runoff rate from the project site for a storm of up to 100-year 2 and 10-year intensity storms does not exceed the peak flow and velocity of runoff rate from the site in its pre-project (existing) state. Where a drainage problem unrelated to a proposed project already exists, the Department of Public Works should encourage the project applicant and neighboring property owners shall be encouraged to develop a solution.

To reflect the modification proposed to Policy C-WR-3, the corresponding revisions to Development Code Section 22.64.080 are also proposed:

Dev. Code 22.64.080 – Water Resources

A. Application requirements.

1. Drainage plans. Coastal permit applications for development that would add or create a total of 10,000 square feet of impervious surface or would alter the land or drainage patterns, shall be accompanied by a preliminary drainage plan, where appropriate as determined by the Department of Public Works, that shows The plan shall include existing and proposed drainage patterns and storm drain improvements for the site, all structures and impervious areas, driveway, and any other improvements. The plan must indicate the direction of surface runoff, path, and method of water on-site run-off dispersal for existing and proposed drainage channels or facilities. The drainage plan must also indicate existing and proposed areas of impervious surfaces. Draining to existing watercourses or detention basins may be allowed if negative impacts to biological resources, water quality, channel stability or flooding of surrounding properties can be avoided or if existing soil conditions do not allow infiltration. Hydrologic calculations may be required to determine whether there would be any additional surface run-off resulting from the development.

...

7. Site Plan Contents – Construction-Phase Element. All projects that would add or create a total of 10,000 square feet of impervious surface, projects that may impact environmentally sensitive habitat (i.e., projects within, directly adjacent to or discharging directly to an environmentally sensitive area), county-defined high-impact projects or other projects that the county staff finds to be a threat to coastal water quality, shall require a Construction-Phase element shown on the site plan. The Construction-Phase element shall specify which interim Best Management Practices (BMPs) will be implemented to minimize erosion and sedimentation during construction and address potential construction runoff contamination with fuels, lubricants, cleaning agents and/or other potential construction-related pollutants or chemicals.

In the application and initial planning process, the applicant shall submit for review and approval a Construction-Phase element that shall include, at a minimum, a narrative report describing all interim erosion, sedimentation, and polluted runoff control BMPs to be implemented during construction, including the following where applicable:

- a. Controls to be implemented based on the volume of grading and phase and time of construction;
- b. BMPs to be implemented for staging, storage, and disposal of excavated materials and construction chemicals or materials;

- c. Design specifications for erosion, sediment, and pollution prevention control BMPs, such as sedimentation basins;
- d. Hydro-seeding, re-vegetation, or landscaping plans for graded or disturbed areas;
- e. Methods to manage affected onsite soils;
- f. Other soil stabilization BMPs to be implemented;
- g. Methods to infiltrate or treat stormwater prior to conveyance off-site during construction;
- h. Methods to eliminate or reduce the discharge potential of other stormwater pollutants resulting from construction activities (e.g., paints, solvents, vehicle fluids, asphalt and cement compounds, and debris) into stormwater runoff;
- i. Plans and procedures for the clean-up of spills and leaks;
- j. Proposed methods for minimizing land disturbance activities and disturbance of natural vegetation;
- k. A site plan showing the location of all temporary erosion control measures; and
- l. A schedule for installation, maintenance, and removal of the temporary erosion control measures.

4. Policy C-WR-11 Detention or Infiltration Basins and Other Post-construction BMPs

At the 12/1/11 hearing, the Planning Commission approved staff's recommendation to delete Policy C-WR-11, as proposed in the staff report. Therefore, the corresponding provisions in the Development Code should also be deleted, as follows, with remaining items renumbered accordingly.

22.64.080 – Water Resources

...

B. Water quality standards.

...

~~**4. Detention and infiltration basins.** If detention or infiltration basins or any other post-construction structural Best Management Practices (BMPs) or suites of BMPs are incorporated in a project, such BMPs shall meet the standards contained in Land Use Plan Policy C-WR-11.~~

5. Policy C-WR-13 Storm Water Pollution Prevention Plans

At the 12/1/11 hearing, the Planning Commission approved changes to Policy C-WR-13 recommended by staff. Therefore, the corresponding provisions in the Development Code should be revised as follows:

22.64.080 – Water Resources

A. Application requirements.

...

3. ~~Storm water pollution prevention plans~~ **Site Plan – Post-Construction Element.**

At the discretion of the ~~Department of Public Works~~ **County** based on the scale or potential water quality impacts of a proposed project, the applicant shall submit a ~~Storm Water Pollution Prevention Plan~~ **site plan containing a Post-Construction Element**. This plan shall detail how storm water and polluted runoff will be managed or mitigated following project construction, utilizing both source control and treatment control measures, and both structural and non-structural measures.

6. Policy C-WR-14 Design Standards for High-Impact Projects

At the 12/1/11 hearing, the Planning Commission discussed Policy C-WR-14 (mistakenly referred to as “Program C-WR-14” in the staff report for that hearing). The PC questioned the meaning of the term “California licensed water quality professional” as contained in that staff report, and requested that staff re-evaluate items 6 and 7 as well as the exclusions of Policy C-WR-14, and determine whether to include them in the policy going forward. If included, the PC requested that staff reorder the policy by switching sentence 1 and 2 for clarity. In addition, the PC discussed the meaning of the “specific exclusions” for remodels and maintenance and repair as cited in the policy.

The term “California licensed water quality professional” was intended to refer to someone who has the appropriate expertise to assess polluted runoff and devise measures to address it. Persons holding a variety of licenses (such as P.E. or hydrogeologist) may have the appropriate expertise to, for instance, properly assess whether or not infiltration can be used at a site. Thus there is no single license or certification that could be cited in this policy. Ultimately, a professional who asserts expertise in the water quality field is responsible for having the appropriate training and knowledge and is responsible for his or her own work. Thus, the term “licensed California professional” would be suitable here, indicating that the necessary plan for post-construction measures should be prepared by someone who knows what he or she is doing and is prepared to demonstrate that fact to the satisfaction of County staff.

Items 6 and 7 in the following list have been revised to clarify that two parameters apply: proximity to coastal waters and the scale of the development. Furthermore, the proximity to coastal waters or wetlands has been adjusted to reflect the Biological Resources policies of the LCP. That is, where a project is proposed within a wetland buffer as established by the Biological Resources policies, the post-construction plan would be required. The plan would also be required for projects within 100 feet of the ocean or coastal waters or that would drain directly (as defined) to the ocean or coastal waters. Note that the intent of Policy C-WR-14 is not to prohibit “high-impact projects,” but rather to set a high standard for them, by requiring treatment control measures that minimize their impacts on an on-going basis, i.e., following the construction phase.

The items in the following list have been reordered, and the “design storms” have been adjusted to match those referred to in Policy C-WR-3. In addition, the “specific exclusions” provision that appeared in the staff report for the Planning Commission hearing on Dec. 1, 2011 is proposed to be deleted below, on the basis that other provisions of the LCP (specifically Dev. Code Chapter 22.68) already govern whether a particular project requires a coastal permit or is exempt from a permit. For instance, in many cases, repair and maintenance projects are exempt from a coastal permit. Thus there is no need to repeat

provisions for exemptions within Policy C-WR-14. Finally, selected edits are proposed to improve the clarity and readability of the policy.

Policy C-WR-14 Design Standards for High-Impact Projects. For developments that have a high potential for generating pollutants **(High-Impact Projects)**, incorporate **treatment control** Best Management Practices (BMPs) or ensure that the requirements of **a revised the current NPDES Phase II Municipal Stormwater** permit are met, whichever is stricter. **The applicant shall submit a preliminary plan with a post-construction element prepared by a licensed California professional, to** The plan shall address **the particular erosion, sedimentation, and** pollutants of concern. **Developments to be considered as High-Impact Projects Requirements** shall include **but are not limited to** the following:

- 21.** Development of commercial facilities shall incorporate BMPs to minimize polluted runoff from structures, landscaping, parking areas, repair and maintenance areas, loading/unloading areas, vehicle/equipment wash areas, and other components of the project.
- 42.** Development of automotive repair shops and retail motor vehicle fuel outlets shall incorporate BMPs to minimize oil, grease, solvents, car battery acid, coolant, petroleum products, and other pollutants from entering **the** stormwater **conveyance system** runoff from any part of the property including fueling areas, repair and maintenance areas, loading/unloading areas, and vehicle/equipment wash areas.
3. Development of restaurants and other food service establishments shall incorporate BMPs to minimize runoff of oil, grease, solvents, phosphates, suspended solids, and other pollutants.
4. **Development of Outdoor storage areas for materials that contain toxic compounds, oil and grease, heavy metals, nutrients, suspended solids, or other pollutants shall be designed with a roof or awning cover to minimize runoff.**
5. Development of **uncovered** parking lots shall incorporate BMPs to minimize runoff of oil, grease, car battery acid, coolant, petroleum products, sediments, trash, and other pollutants.
6. **Development that will:**
 - a. **Result in the creation, addition, or replacement of 5,000 square feet or more of impervious surface, and**
 - b. **Occur within 100 feet of the ocean or coastal waters or discharge runoff directly to the ocean, coastal waters, or to a stream or wetland buffer as defined by the Biological Resources policies of the LCP.**

"Discharge runoff directly" is defined as runoff that flows from the development to the ocean, coastal waters, or to a wetland buffer that is not first combined with flows from any other adjacent areas.
7. **Development that will result in the creation, addition, or replacement of 10,000 square feet or more of impervious surface area, regardless of its location.**
8. **Any other development as determined by the County to have a high potential for generating pollutants or causing erosion.**

Specific exclusions from the above requirements are:

- Interior remodels, and
- Routine maintenance or repair such as:
 - Roof or exterior wall surface replacement,
 - Pavement resurfacing within existing footprint.

The applicant for a High-Impact Project shall be required to submit a preliminary plan with a post-construction element with the application during the initial planning process. Prior to issuance of a building or grading permit the applicant shall submit a final plan with a post-construction element prepared by a licensed California professional for approval by the County. The plan shall include the following where applicable (applicability will be determined by County staff):

1. Pre-project and post-project stormwater runoff hydrograph (runoff flow rate plotted as a function of time) for the project site for 2 and 10-year storm events;
2. A description of how the treatment control BMPs (or suites of BMPs) have been sized and designed to treat, infiltrate, or filter stormwater runoff from each storm event, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs;
3. A description of Low-Impact Development (LID) techniques that will be incorporated into the project in order to minimize negative impacts to stormwater quality and quantity from the project development;
4. If the applicant asserts that treatment control BMPs are not feasible for the proposed project, the plan shall document why those BMPs are not feasible and provide a description of alternative management practices to protect water quality; and
5. A long-term plan and schedule for the operation and maintenance of all treatment control BMPs specifying that treatment control BMPs shall be inspected, cleaned, and repaired as necessary to ensure their effective operation for the life of the development. In addition:
 - a. Owners of these devices shall be responsible for ensuring that they continue to function properly, and additional inspections should occur after storms as needed throughout the wet season, and
 - b. Repairs, modifications, or installation of additional BMPs, as needed, shall be carried out prior to the next wet season.

7. Policy C-WR-15 Construction Phase Pollution

At the 12/1/11 hearing, the Planning Commission approved new Policy C-WR-15. Therefore, a corresponding provision should be added to the Development Code, as follows:

22.64.080 – Water Resources

B. Water quality standards.

...

8. Construction Phase Pollution. The construction site shall be managed to prevent contact between runoff and chemicals, fuel and lubricants, cleansers, and other potentially harmful materials.

8. Policy C-WR-17 Erosion and Flood Control Facilities

At the 12/1/11 hearing, the Planning Commission approved new Policy C-WR-17. Therefore, a corresponding provision should be added to the Development Code, as follows:

22.64.080 – Water Resources

C. Grading and excavation standards.

...

10. Erosion and Flood Control Facilities. Consider placement of sediments collected by erosion and flood control facilities at appropriate points on the shoreline, consistent with Policy C-WR-17.

II. DEVELOPMENT CODE STRUCTURE AND PROCESS

A. Chapter 22.68 – Coastal Permit Requirements

1. Section 22.68.050 Exempt Projects

At the 8/31/11 hearing, the Planning Commission requested that staff consider incorporating a specific impermeable paving “trigger” into Section 22.68.050.A.2 regarding Exempt Projects. For example, as suggested at the hearing, the addition of 1,000 square feet or more of impermeable paving on a developed residential lot would not be considered “exempt” and therefore would require Coastal Permit approval. Consideration of this issue was deferred until it could be considered in the context of policies regarding drainage and other related issues in the Water Resources Section.

In the Coastal Zone, proposals to construct significant areas of impermeable paving, such as driveways, are most often seen as part of a larger development project, such as construction of a new single family residence with its associated access and parking areas. Regardless of the extent of paving, these types of projects are typically subject to Coastal Permit (and often Design Review) approval which allows review of the impacts of any proposed impermeable paved areas on site drainage, vegetation removal, and other coastal resources. However, there may be cases where a property owner wishes to construct new paving or add to existing paved areas on a developed site. As defined in the LCP, installation of any amount of paving (regardless of permeability) which would result in either grading or the removal of vegetation within one hundred feet of a stream or bluff edge or in an ESHA would be defined as “development” subject to Coastal Permit approval. However, as currently drafted, new paving could occur in an ESHA *buffer* (as opposed to within the ESHA itself) without necessarily triggering Coastal Permit review. Based on staff’s experience, the addition of large amounts of paving independent of other development activities is a relatively rare occurrence. However, if the Planning Commission remains concerned about this issue, staff recommends that the Development Code provisions be focused on impermeable paving proposed in close proximity to ESHA’s as shown in the following revision:

Section 22.68.050.A.2 – Exempt Projects

....

2. Structures on a residential lot normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds; but not including guest houses, ~~or~~ self-contained residential units, ~~or 1,000 square feet or more of impermeable paving within an ESHA or its buffer~~; and
-

ATTACHMENT 2: Major Vegetation Removal in the Coastal Zone

On the Planning Commission hearing date of December 1, 2011, staff brought forward comments received from the public regarding vegetation removal in the Coastal Zone and the alteration of landforms. The comments addressed- PRD LUP Policy C-BIO-4 (Alteration of Land Forms), which requires a Coastal Permit for the alteration of land forms, and removal of vegetation in certain sensitive resource areas. The provisions regarding the removal of vegetation conflict with the requirements of California Public Resources Code (PRC) Section 4291-4299 (Attachment #3) and Marin County Code 16.17 (Attachment #4), which require the maintenance of vegetation to minimize fire hazards. At the hearing, the Commission asked staff to clarify the term “land form” and staff recommended that the Commission’s question and the public’s concerns be addressed at the January 23, 2012 hearing so that staff could research potential ways of addressing comments received.

In the following paragraphs, staff outlines the requirements of the PRC, MCC, and the PRD, and based on further review of these requirements, staff recommends that the Commission:

1. Modify the definition of “major vegetation,”
2. Amend Policy C-BIO-4 and create a new program based on the proposed new definition of major vegetation;
3. Create a new policy to protect human life and property from hazards associated with vegetation and develop a program to expedite review of Coastal Permits for major vegetation removal; and
4. Process all applicable Coastal Permits for major vegetation removal administratively.

BACKGROUND

Fuel Reduction Requirements

California PRC Sections 4291-4299 require the maintenance of a firebreak, which includes the removal of flammable vegetation or combustible growth around structures for a distance of not less than 30 feet on each side of a building or structure, or to the property line. Section 4291 of the PRC states that maintenance of a firebreak greater than 100 feet may be required by state law, local ordinance or regulation, in which case grasses and vegetation located more than 30 feet from a building or structure may remain provided that they are less than 18 inches in height. This requirement does not apply to “single specimens of trees” or other “well-pruned vegetation” that are maintained to effectively manage fuels and prevent a means of rapid transmission of fire to nearby vegetation or any building or structure. Any portion of a tree within 10 feet of a chimney or stovepipe is to be removed, or any portion of a tree overhanging a building. Section 4292 of the PRC requires the maintenance of electrical transmission and distribution line. Lines must maintain a clearing of 10 feet in each direction from the outer circumference of transmission poles or towers, although provisions for a clearance of less than 10 feet are provided for lines transmitting less than 110,000 volts.

Marin County Code Chapter 16.17 requires compliance with Section 701 of the California Building Code, regarding approved building materials for structures in Urban Wildland interface Areas and compliance with and the 2003 Urban Wildland Interface Code, as amended by the County of Marin in Chapter 16.17, regarding maintenance of defensible space surrounding structures. MCC Chapter 16.17 requires any property owner, or leaser within the designated and mapped Urban Wildland Interface to maintain a firebreak that is consistent with PRC Section 4292 and states that an additional firebreak from 30 feet to 100 feet may be required by the County of Marin Fire Chief due to extra-hazardous conditions. Guidance provided on the

Marin County Fire Protection District's website (<http://www.xmrfire.org/mrn/defensiblespace/prep.aspx>) states that generally, trees should not have branches that come within 6 feet of the vertical plane of a house. Trees that overhang a roof or power lines should be trimmed. Tall, mature trees should be limbed up 10 feet from the ground. If vegetation is beneath the trees, the trees should be limbed to 10 feet above the top of surrounding vegetation. Conifer trees or other more combustible varieties should be limbed at least 10 feet from the ground, should not have any vegetation below them, and should be spaced at least 10 feet apart.

In review of the PRC sections and MCC Chapter 16.17, staff finds that in both the state and local law, tree removal is not specifically required, only the limbing of trees and pruning of vegetation within a certain proximity to other vegetation and structures. In the PRD, the removal of vegetation may trigger the need for a Coastal Permit under the definition of "development," and PRC Policy C-BIO-4. The removal or pruning of trees that pose a hazard on developed lots is not addressed in LCP Unit I or Unit II, or in the Marin County Interim Code. Currently the removal of any tree in habitat areas described under MCC22.56.051.B requires a Coastal Permit. This poses a problem for some areas of Marin where steep slopes, highly erodible and unstable soils, and winter storm events can result in trees becoming unstable and threatening existing structures and roads. In addition, many areas of the Coastal Zone are infested with Sudden Oak Death and there are many standing dead trees, which pose a hazard. Currently, there is not a mechanism to allow for the removal of trees within such areas without processing a Coastal Permit.

VEGETATION REMOVAL IN THE COASTAL ZONE

Both current code requirements and those of the PRD regarding activities that require Coastal Permit approval are based upon Coastal Act Regulations Section 13250(b)(2), and the definition of "development," which is taken verbatim from Coastal Act Section 30106. Section 13250(b)(2) states that where there is an existing single-family residence "Any significant alteration of land forms including removal or placement of vegetation, on a beach, wetland, or sand dune, or within 50 feet of the edge of a coastal bluff, or in environmentally sensitive habitat areas" requires a coastal development permit. Section 13252(b)(2) contains a similar provision for sites where there is an existing structure other than a single-family residence. The definition of "development" in both the PRD and the Coastal Act includes "the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations..." The definition of "major vegetation" in the PRD was created using the reference in the definition of "development," and Section 13250(b)(2), which address two separate concepts: (1) alteration of land forms, and (2) removal or placement of vegetation in certain sensitive areas. The PRD definition is as follows, with the underlined language differing from Section 13250(b)(2):

Major Vegetation (coastal). Any vegetation on a beach, wetland, or sand dune, or within 100 feet of the edge of a coastal bluff, or stream or in areas of natural vegetation designated as environmentally sensitive habitat areas. Agricultural crops and pastures are not considered to be major vegetation.

Currently, Marin County Code 22.56.0551.B states that "Any significant alteration of land forms including removal or placement of vegetation on a beach wetland or sand dune, or within one hundred feet of the edge of a coastal bluff, or stream or in areas of natural vegetation designated by the local coastal program as significant natural habitat" requires a Coastal Permit,

with the underlined language differing from Section 13250(b)(2). This standard was carried forward into PRD LCP Policy C-BIO-4 to read as follows:

C-BIO-4 Alteration of Land Forms. Require a Coastal Permit for any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within 100 feet of the edge of a coastal bluff, stream or in areas of natural vegetation designated as environmentally sensitive habitat areas.

During the December 1, 2011 Planning Commission hearing, the Commission asked staff to clarify the use of the term “land forms” in Policy C-BIO-4 and the types of activities that would be considered to result in the “alteration of land forms.” Based on a review of the creation of Policy C-BIO-4 and the definition of development, staff does not believe that it is necessary to group these two concepts together in one policy. The definition of “development” in the PRD Development Code Amendments includes activities that result in the alteration of land forms. Thus, the alteration of land forms, is already subject to a coastal permit. Therefore, staff recommends removal of that term from Policy C-BIO-4. As modified, the policy would only address the removal of “major vegetation” as defined above. Thus, staff recommends the PRD definition of “major vegetation” be modified to use language from Coastal Act Section 13250(b)(2) and to broaden it to apply to an ESHA (which includes wetlands and streams) buffer, to exclude the maintenance of vegetation within 100 feet of a building or structure, and to include vegetation that is important from a heritage or aesthetic standpoint, as follows:

Major Vegetation (coastal). Any vegetation on a beach or wetland, or sand dune, or within 100 50 feet of the edge of a coastal bluff, or stream or in areas of natural vegetation designated as in an environmentally sensitive habitat area (ESHA) or its buffer, or heritage trees and vegetation that is aesthetically important. Agricultural croplands and pastures are not considered to be major vegetation. The pruning and maintenance of understory vegetation within 100 feet of a building or structure, the maintenance of trees and removal of trees less than 6 inches in DBH (diameter at breast height) within 100 feet of a building or structure, and the removal of vegetation within 10 feet of a power pole and/or transmission line by a public service agency or their representative do not constitute removal or harvesting of major vegetation.

Staff further recommends that this definition of “major vegetation” be used to modify policy C-BIO-4, and to develop a program that would address the terms “heritage trees” and “vegetation that is aesthetically important, as follows:

~~C-BIO-4 Alteration of Land Forms~~ Protect Major Vegetation. Require a Coastal Permit for any significant alteration of land forms including the removal or placement of vegetation on a beach, wetland, or sand dune, or within one hundred feet of the edge of a coastal bluff, stream or in areas of natural vegetation designated as environmentally sensitive habitat areas or harvesting of major vegetation. Agricultural crop management and grazing is not considered to be a significant alteration of land forms. Coastal Permits shall allow the management of major vegetation where necessary to minimize risks to life and property while avoiding adverse impacts to an ESHA or its buffer, coastal waters, and public views, and shall not conflict with prior conditions of approval, consistent with Policy C-EH-24 (shown below under New Environmental Hazard Policy).

Program C-BIO-4a. Determine the Location of Heritage Trees and Aesthetically Important Vegetation. Develop a process for defining heritage trees and vegetation that is aesthetically important, and for mapping areas in the Coastal Zone that contain such vegetation.

The PRD LUP lacks a specific policy that addresses existing development in fire hazard areas and the need to protect human life and property from hazardous trees, and that allows for the removal of vegetation for such. Therefore, staff recommends the creation of a new policy, consistent with Coastal Act Section 30253(a), that would be implemented, integrated and cross-referenced with recommended revisions to Policy C-BIO-4 above. Due to the need to carefully consider and manage hazard risks, while simultaneously protecting coastal resources, staff further recommends developing a program to detail the process required to manage vegetation to minimize risks to life and property, including the prevention of fires and improving forest health within an ESHA, while protecting the habitat needs of special-status species and the location of sensitive habitat areas. The plan may result in the designation of zones with specific standards and requirements for tree removal based on the species and habitats present in those areas. Below is staff's recommended language.

Program C-BIO-4b: Develop a Coastal Permit process that protects coastal resources and allows for expedited review of projects related to the modification of major vegetation to minimize risks to life and property.

The complementary Environmental Hazard policy is recommended below:

Policy C-EH-(to become 24): Vegetation Management in an ESHA. Minimize risks to life and property life, and property in environmentally sensitive habitat areas, from uncontrolled fire and disease by allowing for the maintenance of major vegetation.

The implementing Development Code for both policies follows:

PRD Development Code Amendment, Chapter 22.64.060.B.10: Coastal Permit applications for the maintenance of major vegetation must meet at least one of criteria 1 through 10, and number 11 for removal:

1. The general health of the tree is so poor due to disease, damage, or age that efforts to ensure its long-term health and survival are unlikely to be successful;
2. The tree is infected by a pathogen or attacked by insects that threaten surrounding trees as determined by an arborist report or other qualified professional;
3. The tree is a potential public health and safety hazard due to the risk of it falling and its structural instability cannot be remedied;
4. The tree is a public nuisance by causing damage to improvements, such as building foundations, retaining walls, roadways/driveways, patios, sidewalks and decks, or interfering with the operation, repair or maintenance of public utilities;
5. The tree has been identified by a Fire Inspector as a fire hazard, and requires removal;
6. The tree was planted for a commercial enterprise, such as Christmas tree farms or orchards;
7. Prohibiting the removal of the tree will conflict with CC&R's which existed at the time this Chapter was adopted;
8. The tree is located on land which is zoned for agriculture (C-ARP or C-APZ) and is being used for commercial agricultural purposes;

9. The tree removal is by a public agency to provide for the routine management and maintenance of public land or to construct a fuel break;
10. The tree is non-native and is not defined as a “protected and heritage tree” in Article VIII (Definitions)
11. The tree removal does not: a) adversely affect any environmentally sensitive habitat areas; b) adversely impact coastal waters; c) adversely impact public views; and c) conflict with prior conditions of approval.

The removal of any tree or vegetation that is not defined as “major vegetation” does not require a Coastal Permit, but must meet the provisions of Chapter 22.62 Tree Removal Permits (as approved by the Board of Supervisors on 12/15/11) and could require a Tree Permit. The removal of major vegetation could qualify for an Administrative Coastal Permit as described further below.

Administrative Coastal Permit

The Public Review Draft of the Development Code includes three options for administrative approval of projects such as vegetation removal. Two options are available for projects that are not appealable to the Coastal Commission: the Administrative Coastal Permit (see Sec. 22.70.040.B.3) and the De Minimis Waiver of Coastal Permit (Sec. 22.70.040.B.2). A third option is available for projects that are appealable to the Coastal Commission and thus would ordinarily require a public hearing. The latter option is the Public Hearing Waiver for a project defined as a “minor development” where no interested party requests a public hearing (Sec. 22.70.040.B.5). Although the use of these administrative-type permit approvals is not guaranteed in any given instance, depending on the nature of the proposed project and, in the case of the public hearing waiver, on the extent of public interest in the project, these permit procedures would be available to address the need of property owners to address fire or other hazards on their property caused by the presence of trees or other major vegetation. Furthermore, by definition, certain vegetation removal projects will not require a coastal development permit in the first instance, because of the definition of “major vegetation” as proposed above.

PUBLIC RESOURCES CODE

SECTION 4291-4299

4291. (a) A person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material, shall at all times do all of the following:

(1) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line except as provided in paragraph (2). The amount of fuel modification necessary shall take into account the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of fuels management may vary within the 100-foot perimeter of the structure, the most intense being within the first 30 feet around the structure. Consistent with fuels management objectives, steps should be taken to minimize erosion. For the purposes of this paragraph, "fuel" means any combustible material, including petroleum-based products and wildland fuels.

(2) A greater distance than that required under paragraph (1) may be required by state law, local ordinance, rule, or regulation. Clearance beyond the property line may only be required if the state law, local ordinance, rule, or regulation includes findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. Clearance on adjacent property shall only be conducted following written consent by the adjacent landowner.

(3) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under paragraph (1) if a fire expert, designated by the director, provides findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. The greater distance may not be beyond the property line unless allowed by state law, local ordinance, rule, or regulation.

(4) Remove that portion of a tree that extends within 10 feet of the outlet of a chimney or stovepipe.

(5) Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood.

(6) Maintain the roof of a structure free of leaves, needles, or other vegetative materials.

(7) Prior to constructing a new building or structure or rebuilding a building or structure damaged by a fire in an area

subject to this section, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the certification, upon request, to the insurer providing coverage of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

(b) A person is not required under this section to manage fuels on land if that person does not have the legal right to manage fuels, nor is a person required to enter upon or to alter property that is owned by any other person without the consent of the owner of the property.

(c) (1) Except as provided in Section 18930 of the Health and Safety Code, the director may adopt regulations exempting a structure with an exterior constructed entirely of nonflammable materials, or, conditioned upon the contents and composition of the structure, the director may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding those structures.

(2) An exemption or variance under paragraph (1) shall not apply unless and until the occupant of the structure, or if there is not an occupant, the owner of the structure, files with the department, in a form as the director shall prescribe, a written consent to the inspection of the interior and contents of the structure to ascertain whether this section and the regulations adopted under this section are complied with at all times.

(d) The director may authorize the removal of vegetation that is not consistent with the standards of this section. The director may prescribe a procedure for the removal of that vegetation and make the expense a lien upon the building, structure, or grounds, in the same manner that is applicable to a legislative body under Section 51186 of the Government Code.

(e) The Department of Forestry and Fire Protection shall develop, periodically update, and post on its Internet Web site a guidance document on fuels management pursuant to this chapter. Guidance shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat; and suggestions to minimize or eliminate the risk of flammability of nonvegetative sources of combustion such as woodpiles, propane tanks, decks, and outdoor lawn furniture.

(f) As used in this section, "person" means a private individual, organization, partnership, limited liability company, or corporation.

4291.1. (a) Notwithstanding Section 4021, a violation of Section

4291 is an infraction punishable by a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500). If a person is convicted of a second violation of Section 4291 within five years, that person shall be punished by a fine of not less than two hundred fifty dollars (\$250), nor more than five hundred dollars (\$500). If a person is convicted of a third violation of Section 4291 within five years, that person is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500). If a person is convicted of a third violation of Section 4291 within five years, the department may perform or contract for the performance of work necessary to comply with Section 4291 and may bill the person convicted for the costs incurred, in which case the person convicted, upon payment of those costs, shall not be required to pay the fine. If a person convicted of a violation of Section 4291 is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.

(b) If a person convicted of a violation of Section 4291 produces in court verification prior to imposition of a fine by the court, that the condition resulting in the citation no longer exists, the court may reduce the fine imposed for the violation of Section 4291 to fifty dollars (\$50).

4291.3. Subject to any other applicable provision of law, a state or local fire official, at his or her discretion, may authorize an owner of property, or his or her agent, to construct a firebreak, or implement appropriate vegetation management techniques, to ensure that defensible space is adequate for the protection of a hospital, adult residential care facility, school, aboveground storage tank, hazardous materials facility, or similar facility on the property. The firebreak may be for a radius of up to 300 feet from the facility, or to the property line, whichever distance is shorter.

4292. Except as otherwise provided in Section 4296, any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land, or forest-covered land, brush-covered land, or grass-covered land shall, during such times and in such areas as are determined to be necessary by the director or the agency which has primary responsibility for fire protection of such areas, maintain around and adjacent to any pole or tower which supports a switch, fuse, transformer, lightning arrester, line junction, or dead end or corner pole, a firebreak which consists of a clearing of not less than 10 feet in each direction from the outer circumference of such pole or tower. This section does not, however, apply to any line which is used exclusively as telephone, telegraph, telephone or telegraph messenger call, fire or alarm line, or other line which is classed as a communication circuit by the Public Utilities Commission. The director or the agency which has primary fire protection responsibility for the protection of such areas may permit exceptions from the requirements of this section which are based upon the specific circumstances involved.

4293. Except as otherwise provided in Sections 4294 to 4296, inclusive, any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land, or in forest-covered land, brush-covered land, or grass-covered land shall, during such times and in such areas as are determined to be necessary by the director or the agency which has primary responsibility for the fire protection of such areas, maintain a clearance of the respective distances which are specified in this section in all directions between all vegetation and all conductors which are carrying electric current:

(a) For any line which is operating at 2,400 or more volts, but less than 72,000 volts, four feet.

(b) For any line which is operating at 72,000 or more volts, but less than 110,000 volts, six feet.

(c) For any line which is operating at 110,000 or more volts, 10 feet.

In every case, such distance shall be sufficiently great to furnish the required clearance at any position of the wire, or conductor when the adjacent air temperature is 120 degrees Fahrenheit, or less. Dead trees, old decadent or rotten trees, trees weakened by decay or disease and trees or portions thereof that are leaning toward the line which may contact the line from the side or may fall on the line shall be felled, cut, or trimmed so as to remove such hazard. The director or the agency which has primary responsibility for the fire protection of such areas may permit exceptions from the requirements of this section which are based upon the specific circumstances involved.

4294. A clearing to obtain line clearance is not required if self-supporting aerial cable is used. Forked trees, leaning trees, and any other growth which may fall across the line and break it shall, however, be removed.

4295. A person is not required by Section 4292 or 4293 to maintain any clearing on any land if such person does not have the legal right to maintain such clearing, nor do such sections require any person to enter upon or to damage property which is owned by any other person without the consent of the owner of the property.

4296. Sections 4292 and 4293 do not apply if the transmission or distribution line voltage is 750 volts or less.

4296.5. (a) Any person or corporation operating a railroad on forest, brush, or grass-covered land shall, if ordered by the director or the agency having primary responsibility for fire protection of the area, destroy, remove, or modify so as not to be flammable any vegetation or other flammable material defined by regulation of the director to be a fire hazard on the railroad

right-of-way. The director shall adopt regulations establishing fire prevention hazard reduction standards for broad geographic areas by fuel type, slope, and potential for ignition from hot or flaming exhaust, carbon particles, hot metal, burning signal devices, burning tobacco, and other similar potential sources of ignition.

(b) The order to destroy, remove, or modify vegetation or other flammable material shall specify the location of the hazard to be destroyed, removed, or modified within the right-of-way, the width of the hazard which shall not exceed the width of the right-of-way, and the time within which compliance with the order is required.

(c) The director or the agency having primary responsibility for fire protection of the area shall allow a reasonable period of time for compliance with an order to destroy, remove, or modify vegetation or other flammable material.

4297. Upon the showing of the director that the unrestricted use of any grass-covered land, grain-covered land, brush-covered land, or forest-covered land is, in the judgment of the director, a menace to life or property due to conditions tending to cause or allow the rapid spread of fires which may occur on such lands or because of the inaccessible character of such lands, the Governor through the director, may, by a proclamation, which declares such condition and designates the area to which, and the period during which the proclamation shall apply, require that such area be closed to hunting and fishing and to entry by any person except a person that is within one of the following classes:

(a) Owners and lessees of land in the area.

(b) Bona fide residents in the area.

(c) Persons engaged in some bona fide business, trade, occupation, or calling in the area and persons employed by them in connection with such business, trade, occupation, or calling.

(d) Authorized agents or employees of a public utility entering such area for the purpose of operating or maintaining public utility works or equipment within the area.

(e) Members of any organized firefighting force.

(f) Any federal, state or local officer in the performance of his duties.

(g) Persons traveling on public roads or highways through the area.

4298. The proclamation by the Governor shall be released to the wire news services in the state, and shall be published at least once in a newspaper of general circulation in each county which contains any lands covered by the proclamation. Notice of closure shall also be posted on trails or roads entering the area covered by the proclamation. The closure shall be effective upon issuance of the proclamation by the Governor. Each notice shall clearly set forth the area to be subject to closure and the effective date of such closure. The closure shall remain in full force and effect until the Governor shall by order terminate it. The notice of such termination shall follow the same procedure by which such closure was effected. The order of termination shall be effected upon issuance.

4299. A person who violates Section 4297 or 4298 is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) or by imprisonment in the county jail for not less than 10 days nor more than 90 days or both the fine and imprisonment. All state and county law enforcement officers shall enforce orders of closure.

Chapter 16.17 - URBAN-WILDLAND INTERFACE CODE

SECTION 603—DEFENSIBLE SPACE

(mm) 603.1. Objective. Provisions of this section are intended to modify the fuel load, type, and configuration in areas adjacent to structures to create a defensible space.

(nn) 603.2. Fuel modification. In order to qualify as a conforming defensible space fuel modification shall be provided as specified in Fire Protection Standards approved by the Chief. Distances specified in the Fire Protection Standards may be modified by the code official because of a site-specific analysis based on local conditions and the fire protection plan. Persons owning, leasing, controlling, operating or maintaining buildings or structures requiring defensible spaces are responsible for modifying or removing non fire-resistive vegetation on the property owned, leased or controlled by said person. If the required defensible space requires fuel modification that exceeds the boundaries of the property owned, leased or controlled by said person, said person shall obtain the right to modify or remove non fire-resistive vegetation on the adjacent property to the extent required. If such permission cannot be obtained from adjacent property owners, the building or structure shall be modified to meet construction requirements consistent with the defensible space that can be maintained within the boundaries of the property owned, leased or controlled.

Trees are allowed within the defensible space, provided the horizontal distance between crowns of adjacent trees and crowns of trees and structures, overhead electrical facilities or unmodified fuel is not less than 10 feet. Deadwood and litter shall be regularly removed from trees.

Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated defensible space, provided they do not form a means of transmitting fire from the native growth to any structure.

(oo) Table 603.2 of Chapter 6 is hereby deleted.

(pp) Figure 603.2 of Chapter 6 is hereby deleted.

(qq) Section 606.1 of Chapter 6 is hereby deleted and the following language substituted in its place:

(rr) 606.1. General. The storage of LP-gas and the installation and maintenance of pertinent equipment shall be in accordance with the Fire Protection Standard - Marin County Standard.

(ss) Section 606.2 of Chapter 6 is hereby deleted and the following language substituted in its place:

(tt) 606.2. Location of containers. LP-gas containers shall be located within the defensible space in accordance with the Fire Protection Standard - Marin County Standard.

(Ord. 3453 § 1 (part), 2006)

16.17.030 - Amendments to the 2001 California Building Code which consist of certain portions of the 1997 Edition of the Uniform Building Code as adopted and amended by the California

Building Standards Commission.

- (a) Section 701 of the California Building Code is hereby amended by adding the following sentence:

Buildings constructed in designated urban wildland interface areas shall comply with this code and the 2003 Urban Wildland Interface Code as amended by the county of Marin.

(Ord. 3453 § 1 (part), 2006)

16.17.040 - Amendments to Appendix IIA Uniform Fire Code 2000 Edition.

- (a) Section 16.1 of Appendix II-A Uniform Fire Code is hereby deleted and the following language substituted in its place:

SECTION 16 — CLEARANCE OF BRUSH OR VEGETATIVE GROWTH FROM STRUCTURES

16.1 General. Persons owning, leasing, controlling operating or maintaining buildings or structures in, upon or adjoining hazardous fire areas, including on adjacent property over which said person(s) have obtained a right to modify vegetation in conformance with the requirements of this section, shall at all times:

1. Maintain an effective firebreak by removing and clearing away flammable vegetation and combustible growth from areas within thirty feet of such buildings or structures;

Exception: 1.

Single specimens of trees, ornamental shrubbery or similar plants used as ground covers, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure.

Exception: 2.

If the owner, lessee, or person controlling, operating or maintaining said property cannot obtain the right to modify vegetation on adjacent property, the Chief may order modification of the structures to provide an equivalent condition.

2. Maintain additional fire protection or firebreak by removing brush, flammable vegetation and combustible growth located from thirty feet to one hundred feet from such buildings or structures, when required to do so by the county of Marin fire chief because of extra-hazardous conditions causing a firebreak of only thirty feet to be insufficient to provide reasonable fire safety.

Exception: 1.

Grass and other vegetation located more than thirty feet from buildings or structures and less than eighteen inches in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.

Exception: 2. 16.17.040

If the owner, lessee, or person controlling, operating or maintaining said property cannot obtain the right to modify vegetation on adjacent property, the Chief may order modification of the structures to provide an equivalent condition.

3. Remove portions of trees which extend within 10 feet of the outlet of a chimney.

4. Maintain trees adjacent to or overhanging a building free of deadwood; and

5. Maintain the roof and gutters of a structure free of leaves, needles or other dead vegetative growth.

(Ord. 3453 § 1 (part), 2006)

16.17.050 - Authority to arrest and issue citations.

(a) The county of Marin fire chief, chief officers, and fire marshal shall have authority to arrest or to cite any person who violates any provision of this chapter involving the ICC Urban Wildland Interface Code or the California Building Standards Code relating to fire and panic safety as adopted by the State Fire Marshal, in the manner provided for the arrest or release on citation and notice to appear with respect to misdemeanors or infractions, as prescribed by Chapters 5, 5c and 5d of Title 3, Part 2 of the California Penal Code, including Section 853.6, or as the same hereafter may be amended.

(b) It is the intent of the county of Marin board of supervisors that the immunities provided in Penal Code Section 836.5, incorporated herein by reference, are applicable to aforementioned officers and employees exercising their arrest or citation authority within the course and scope of their employment pursuant to this chapter.

(c) In lieu of the above procedures, the county of Marin shall also have the authority to proceed under any local ordinance it may have adopted for purposes of the administrative enforcement of its Code.

(d) In lieu of the above procedures, the Marin county fire department shall also have the authority to proceed under any local ordinance the board of supervisors may have adopted for purposes of the administrative enforcement of its Code.

(Ord. 3453 § 1 (part), 2006)

16.17.055 - Penalties.

(a) The violations of this Code as adopted herein are misdemeanors/infractions and are subject to the penalties set forth herein.

(b) The first citation, within a twelve-month period, for violations of the ICC Urban Wildland Interface Code and any amendments adopted herein shall be treated as a civil penalty payable directly to the Marin County fire department and is set at one hundred fifty dollars plus the actual costs of all inspections required to gain compliance at the rate set from time to time by the Marin County fire department. Said civil penalties shall be a debt owed to the Marin County fire department by the person responsible for the violation within thirty days after the date of mailing of the citation unless an appeal is filed as provided in Section 16.17.070. Upon failure to pay the civil penalty when due, the responsible person shall be liable in a civil action brought by the Marin County fire department for such civil penalty and costs of the litigation, including reasonable attorney's fees.

(c) Any subsequent citations within a twelve month period for any violations of this Code and any amendments adopted herein shall be misdemeanors/infractions, and shall be subject to the penalties set forth herein.

(d) The imposition of one penalty for any violation shall not excuse the violation or permit it to continue and all such persons shall be required to correct or remedy such violations or defects within a reasonable time and, when not otherwise specified each day that a violation occurs or continues, after a final notice has been delivered shall constitute a separate offense. The application of multiple

penalties shall not be held to prevent the enforced correction of prohibited conditions.

(e) Nothing contained in Subsections (a) through (f) of this section shall be construed or interpreted to prevent the Marin County fire department from recovering all costs associated with a Marin County fire department enforcement as described in the ICC Urban Wildland Interface Code, California Building Code, or the California Fire Code, with all documents listed in Subsection (e) are incorporated herein by reference.

(f) Any violation of any provision of this chapter shall constitute a public nuisance and shall entitle the Marin County fire department to collect the costs of abatement and related administrative costs by a nuisance abatement lien as more particularly set forth in Government Code Section 38773.1, and by special assessment to be collected by the county tax collector as more particularly set forth in Government Code Section 38773.5. At least thirty days prior to recordation of the lien, or submission of the report to the tax collector for collection of this special assessment, the record owner shall receive notice from the chief of the Marin County fire department's intent to charge the property owner for all administrative costs associated with enforcement of this chapter and abatement of the nuisance. The notice shall include a summary of costs associated with enforcement of this chapter and abatement of the nuisance. The property owner may appeal the fire chief's decision in writing to the Marin County administrator's office within fifteen days of the date of the notice and request a hearing before the administrator's office prior to recordation of the lien or submission of the report to the county tax collector for collection of the special assessment. The county administrator or his/her designee shall hear the appeal. In addition to the foregoing, the Marin County fire department is authorized to prosecute a civil action to collect such abatement costs from the property owner or other person in possession or control of the affected property, and shall be entitled to recover such abatement costs, together with the cost of litigation, including reasonable attorney's fees. The provisions of this section shall also apply to corrective actions for the clearance of brush or vegetative growth from structures as outlined in Appendix A of this Code and Section 16.2 of Appendix II-A of the 2000 Uniform Fire Code as amended.

(g) In lieu of the above procedures, the Marin County fire department shall also have the authority to proceed under any local ordinance it may have adopted for purposes of the administrative enforcement of its Code.

(Ord. 3453 § 1 (part), 2006)

16.17.060 - Appeals.

(a) Any person receiving a citation for a civil penalty pursuant to subsection (a) of Section 16.17.050 may file within thirty days after the date of mailing the citation or bill, an administrative appeal against imposition of the civil penalty or response costs and expense. The appeal shall be in writing and filed with the county of Marin fire chief or his/her designee, and shall include the grounds for appeal. The county of Marin fire chief shall cause to be conducted an administrative hearing on the appeal, after giving the appellant at least ten days' advance written notice of the time and place of the hearing. Within ten days after the hearing the hearing officer shall give written notice of the decision to the appellant, which decision shall be final. If the appeal is denied in part or full, all amounts due shall be paid within thirty days after the mailing of the notice of the decision of the hearing officer.

(b) Whenever the county of Marin fire chief or his/her designee shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of this Code do not apply or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the county of Marin fire chief to the Marin County administrator's office within ten days from the date of the chief's decision. The county administrator or

his/her designee shall hear the appeal.

(Ord. 3453 § 1 (part), 2006)

16.17.070 - Validity.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The board of supervisors of the county of Marin hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases shall be declared invalid.

(Ord. 3453 § 1 (part), 2006)

16.17.075 - Former ordinances.

Nothing in this chapter or in the *Urban-Wildland Interface Code* hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Sections 16.17.020, 16.17.030, and 16.17.040 of this chapter; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.

(Ord. 3453 § 1 (part), 2006)

16.17.080 - Urban-Wildland Interface Areas.

Specific boundaries of natural or man-made features of urban-wildland interface areas shall be as shown on the wildland area interface map as delineated in Attachment "A" of this ordinance.

(Ord. 3453 § 1 (part), 2006)

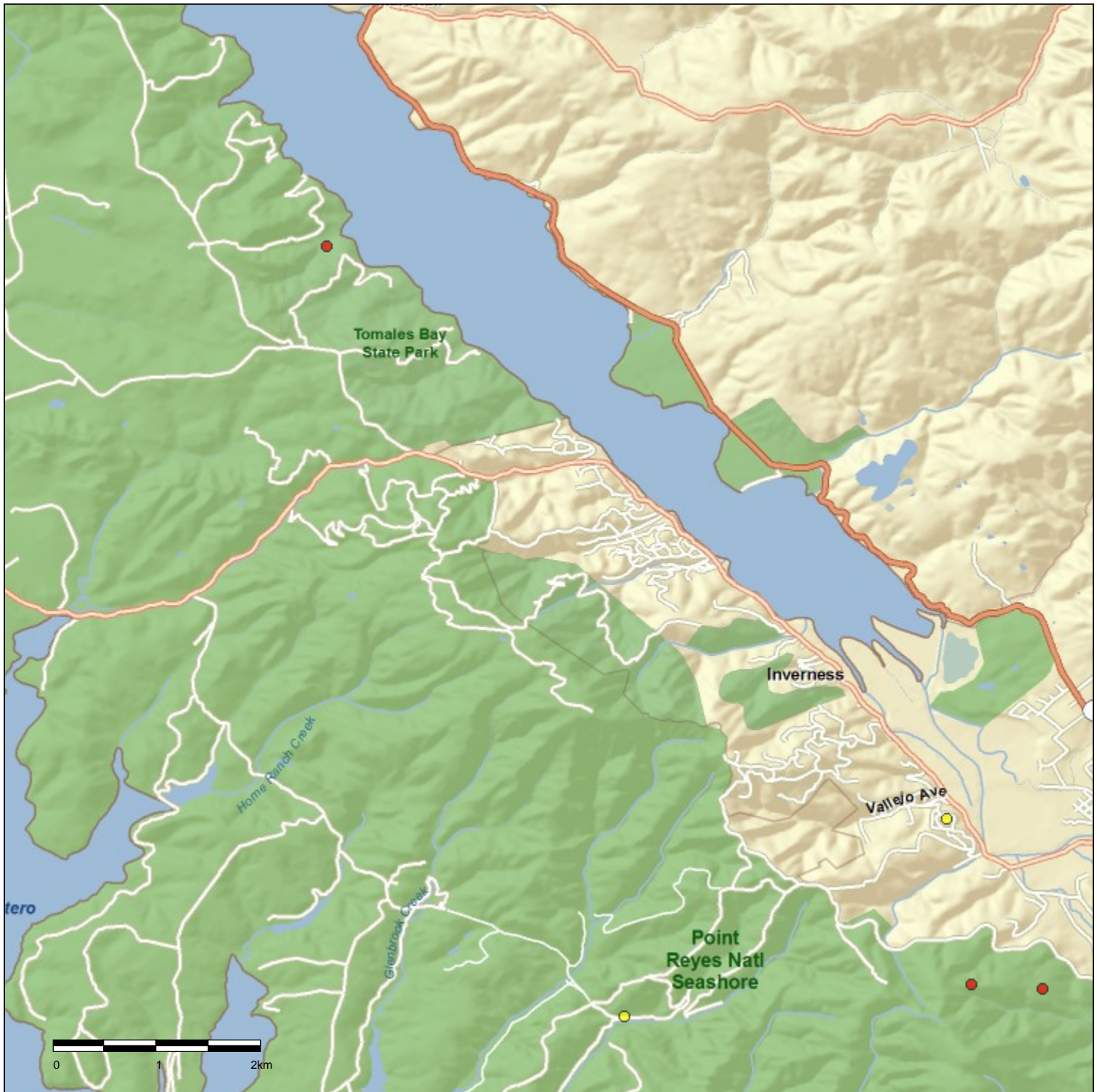
16.17.090 - Ordinance publication and effective date

A summary of this ordinance shall be published and a certified copy of the full text of this ordinance shall be posted in the office of the clerk of the county of Marin at least five days prior to the board meeting at which it is adopted.

This ordinance shall be in full force and effective thirty days after its final passage, and the summary of this ordinance shall be published within fifteen days after the adoption, together with the names of the Marin County board of supervisors voting for or against same, in the Independent Journal, a newspaper of general circulation published in the county of Marin, State of California.

Within fifteen days after adoption, the county clerk shall also post in the office of the county clerk, a certified copy of the full text of this ordinance along with the names of those board members voting for and against the ordinance.

(Ord. 3453 § 1 (part), 2006)



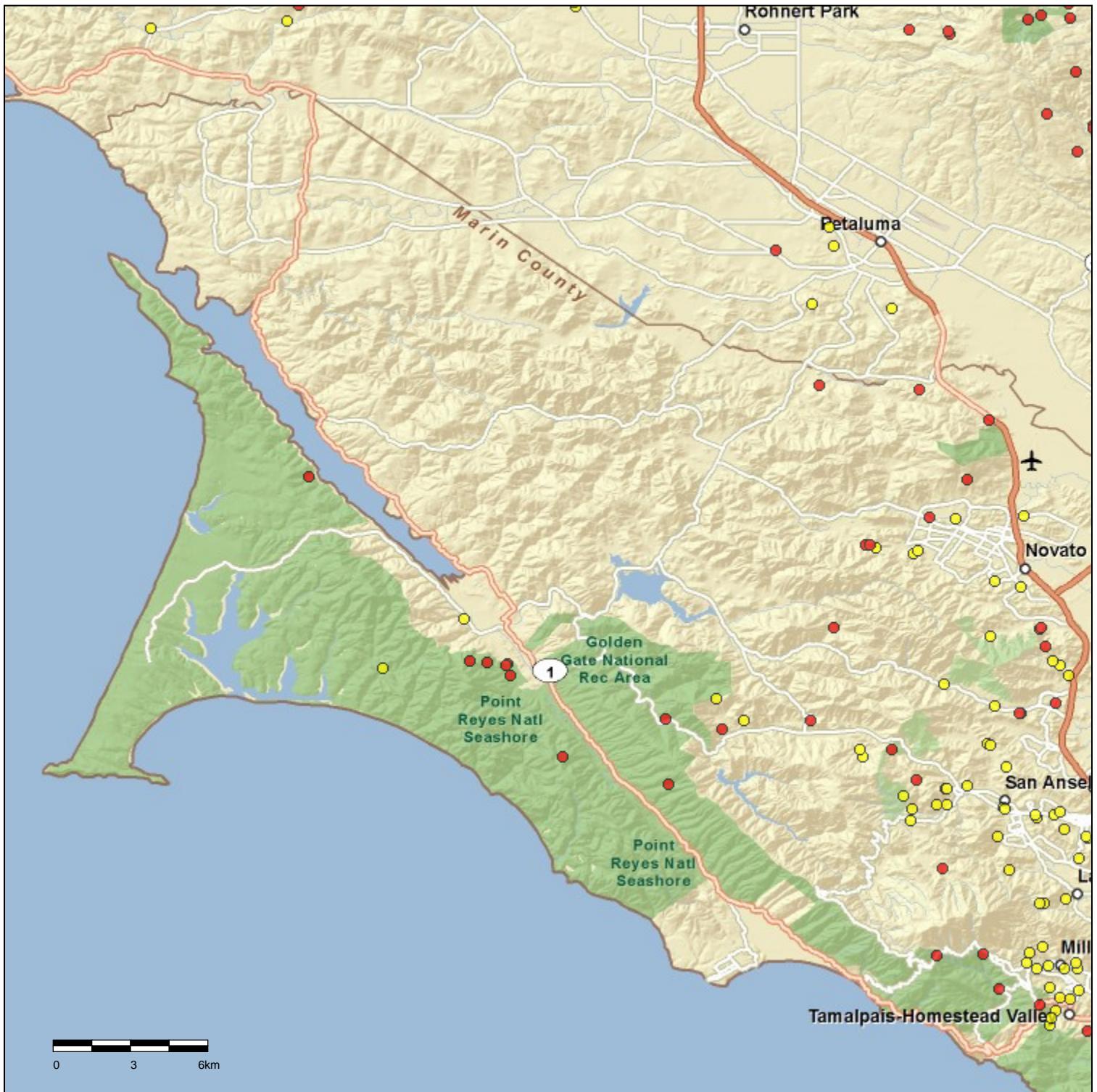
- Confirmed isolation of *Phytophthora ramorum*
- Community submitted incidents of *Phytophthora ramorum*

Data sources:

- Confirmed isolations of *Phytophthora ramorum* provided by UC Davis, UC Berkeley, and CDFA. Nursery confirmations are not depicted.
 - USGS Digital Raster Graphics
- Sampling is occurring throughout the state.



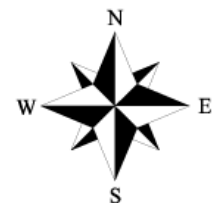
Produced on 12/14/11 by UCB GIF
<http://www.suddenoakdeath.org/>
<http://www.oakmapper.org/>



- Confirmed isolation of *Phytophthora ramorum*
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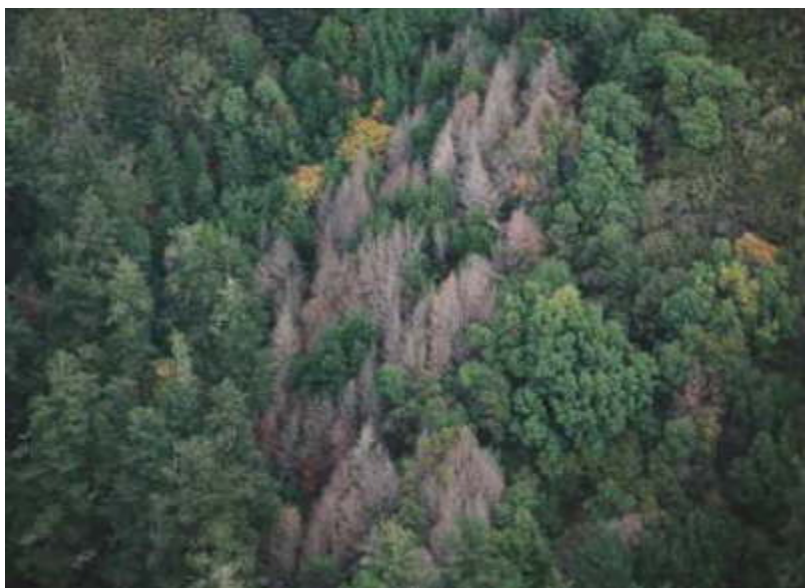


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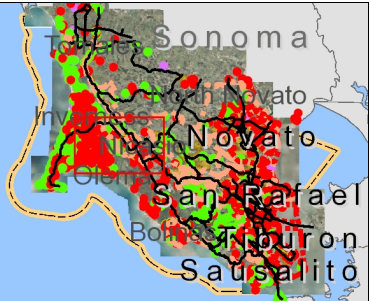
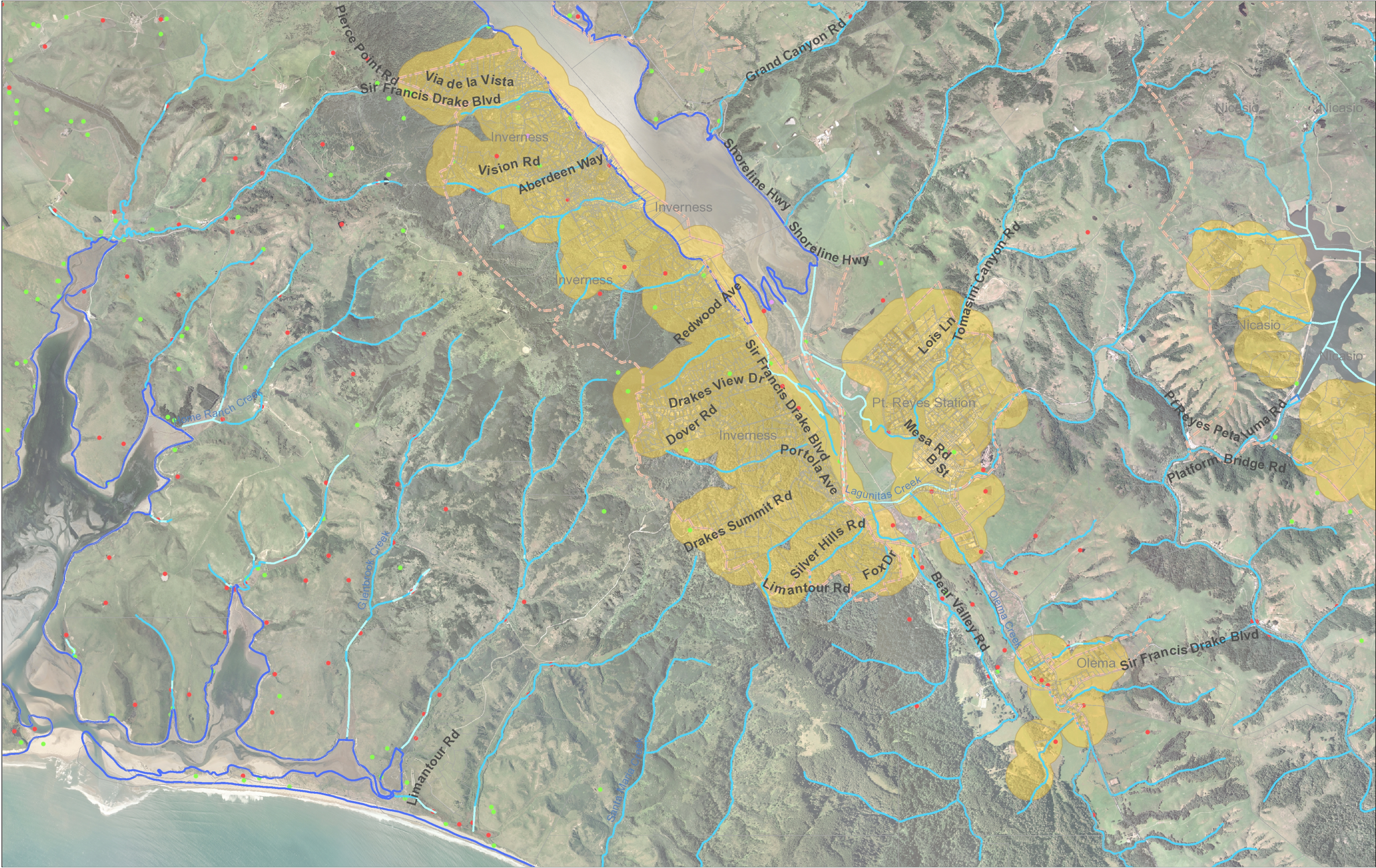
Sudden Oak Death in West Marin

Photos retrieved from www.suddenoakdeath.org and provided by the UC Cooperative Extension





Point Reyes Station, Inverness, Olema WUI and CNDDDB



- Legend**
- Road (Major)
 - Road Name
 - Parcel
 - Community
 - NHD Flowline
 - ArtificialPath
 - CanalDitch
 - Coastline
 - Connector
 - Pipeline
 - StreamRiver
 - CNDDDB (Point)
 - Plant
 - Animal
 - Terrestrial Community
 - Urban Wildland Interface
 - 2007 Ortho low reso
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3
 - Marin County Legal Boundary
 - Other Bay Area County
 - Ocean and Bay

1: 48,399



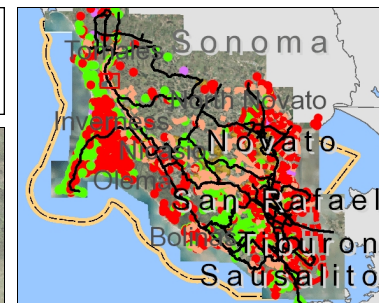
1.5 0 0.76 1.5 Miles

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY PRECISE.

Notes

ATTACHMENT #6

Tomales WUI and CNDDDB



Legend

- Road (Major)
- Road Name
- Parcel
- Community
- NHD Flowline
 - ArtificialPath
 - CanalDitch
 - Coastline
 - Connector
 - Pipeline
 - StreamRiver
- CNDDDB (Point)
 - Plant
 - Animal
 - Terrestrial Community
- Urban Wildland Interface
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 - Green: Band_2
 - Blue: Band_3
- Marin County Legal Boundary
- Other Bay Area County
- Ocean and Bay

1: 16,778

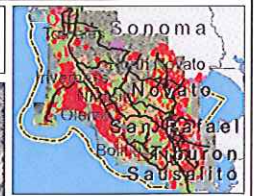
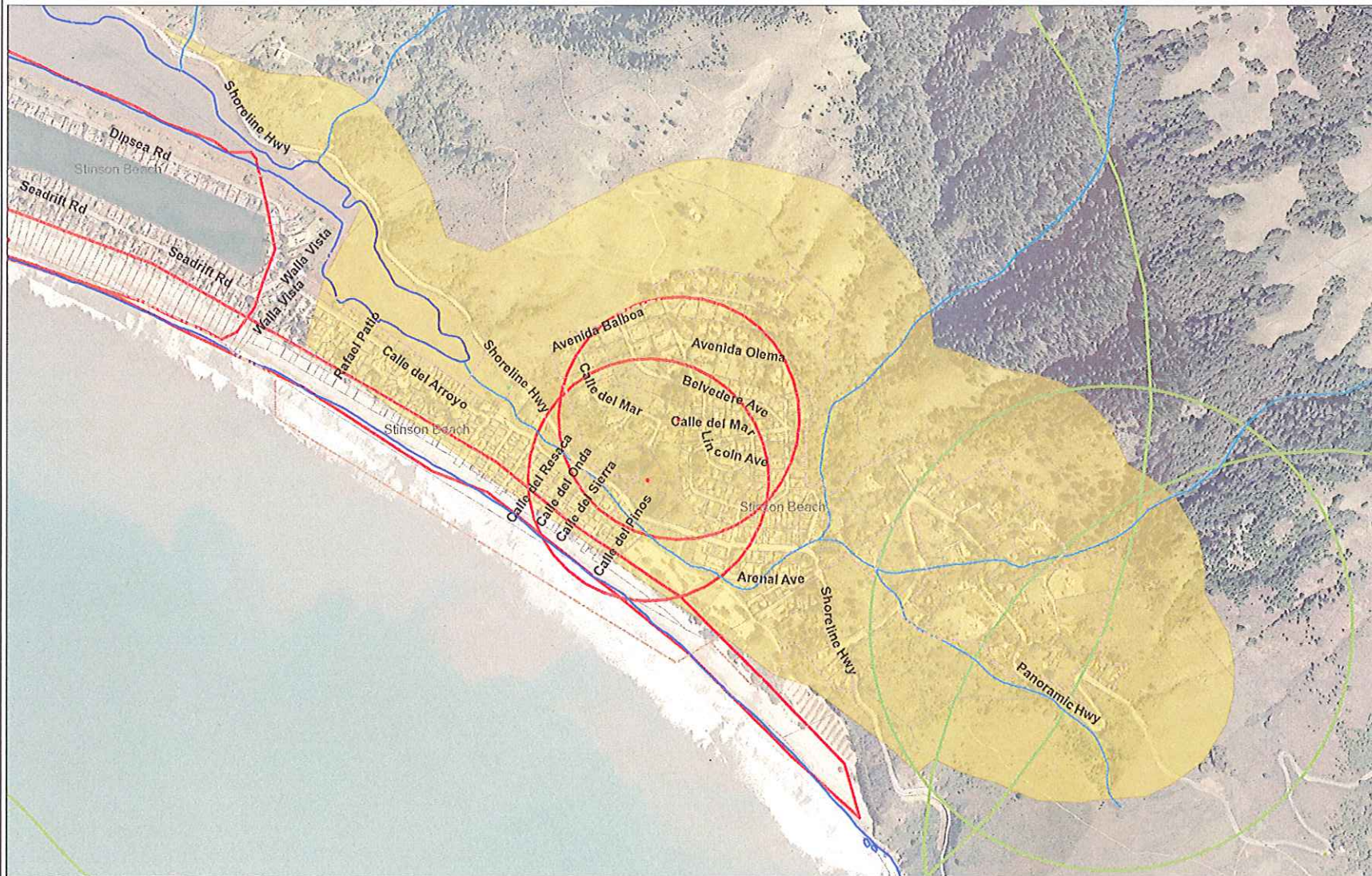


0.5 0 0.26 0.5 Miles

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THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY PRECISE.

Notes

Stinson Beach WUI and CNDDB



- Legend**
- Road (Major)
 - Road Name
 - Parcel
 - Community
 - NHD Flowline
 - ArtificialPath
 - Canal/Ditch
 - Coastline
 - Connector
 - Pipeline
 - Stream/River
 - CNDDB (Point)
 - Plant
 - Animal
 - Terrestrial Community
 - CNDDB (Circle)
 - Plant
 - Animal
 - Terrestrial Community
 - Urban Wildland Interface
 - 2007 Ortho low reso
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3
 - Marin County Legal Boundary
 - Other Bay Area County
 - Ocean and Bay

1:9,363

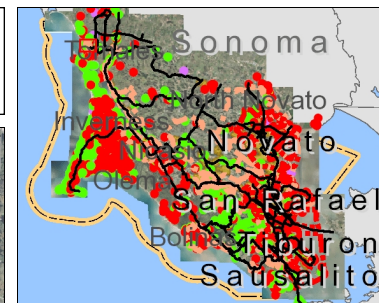


0.3 0 0.15 0.3 Miles

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THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY PRECISE.

Notes

Dillon Beach WUI and CNDDDB



Legend

- Road (Major)
- Road Name
- Parcel
- Community
- NHD Flowline
 - ArtificialPath
 - CanalDitch
 - Coastline
 - Connector
 - Pipeline
 - StreamRiver
- CNDDDB (Point)
 - Plant
 - Animal
 - Terrestrial Community
- Urban Wildland Interface
- 2007 Ortho low reso
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3
- Marin County Legal Boundary
- Other Bay Area County
- Ocean and Bay

1: 14,830

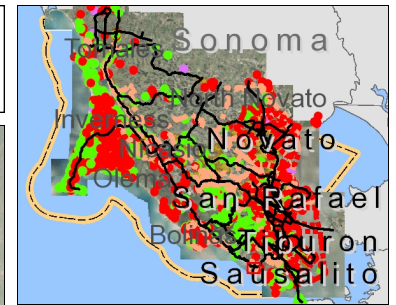
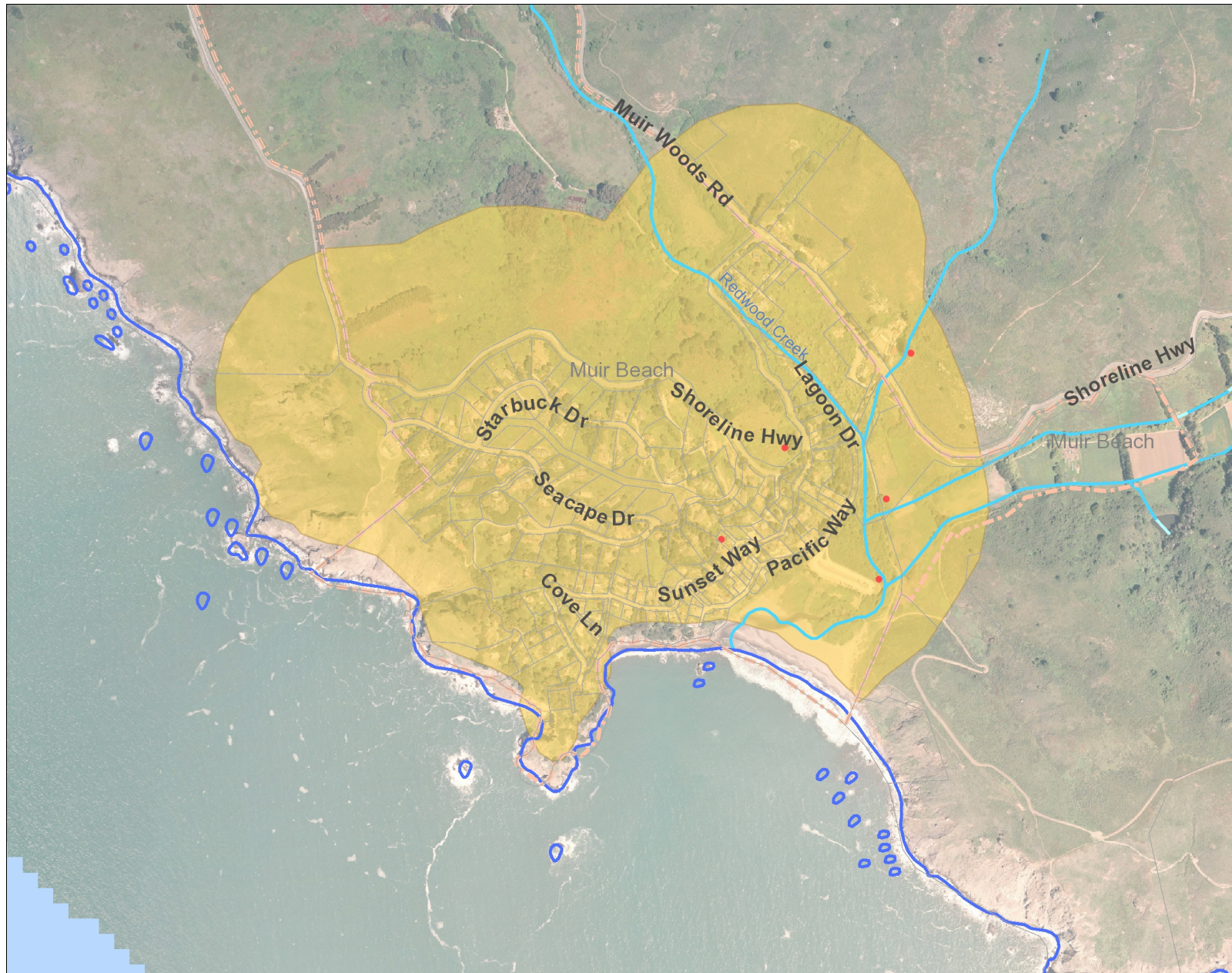


0.5 0 0.23 0.5 Miles

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THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY PRECISE.

Notes

Muir Beach WUI and CNDDDB



Legend

- Road (Major)
- Road Name
- Parcel
- City Boundary
- Community
- NHD Flowline
 - ArtificialPath
 - CanalDitch
 - Coastline
 - Connector
 - Pipeline
 - StreamRiver
- CNDDDB (Point)
 - Plant
 - Animal
 - Terrestrial Community
- Urban Wildland Interface
- 2007 Ortho low reso
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3
- Marin County Legal Boundary
- Other Bay Area County
- Ocean and Bay

1: 11,581

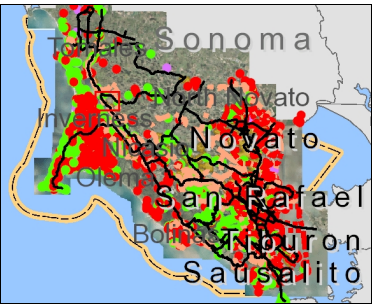


0.4 0 0.18 0.4 Miles

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THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY PRECISE.

Notes

Marshall WUI and CNDDDB



Legend

- Road (Major)
- Road Name
- Parcel
- Community
- NHD Flowline
 - ArtificialPath
 - CanalDitch
 - Coastline
 - Connector
 - Pipeline
 - StreamRiver
- CNDDDB (Point)
 - Plant
 - Animal
 - Terrestrial Community
- Urban Wildland Interface
- 2007 Ortho low reso
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3
- Marin County Legal Boundary
- Other Bay Area County
- Ocean and Bay

1: 21,986



0.7 0 0.35 0.7 Miles

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THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY PRECISE.

Notes

Special-Status Species in Wildland Urban Interface Areas

BOLINAS	
Scientific Name	Common Name
<i>Alopecurus aequalis</i> var. <i>sonomensis</i>	Sonoma alopecurus
<i>Arctostaphylos virgata</i>	Marin manzanita
<i>Ardea alba</i>	great egret
<i>Ardea herodias</i>	great blue heron
<i>Caecidotea tomalensis</i>	Tomales isopod
<i>Ceanothus masonii</i>	Mason's ceanothus
<i>Chloropyron maritimum</i> ssp. <i>palustre</i>	Point Reyes bird's-beak
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat
<i>Cypseloides niger</i>	black swift
<i>Danaus plexippus</i>	monarch butterfly
<i>Fritillaria lanceolata</i> var. <i>tristulis</i>	Marin checker lily
<i>Geothlypis trichas sinuosa</i>	saltmarsh common yellowthroat
<i>Hemizonia congesta</i> ssp. <i>congesta</i>	seaside tarplant
<i>Hydrochara rickseckeri</i>	Ricksecker's water scavenger beetle
<i>Lasiurus cinereus</i>	hoary bat
<i>Lasiurus cinereus</i>	hoary bat
<i>Laterallus jamaicensis coturniculus</i>	California black rail
<i>Leptosiphon croceus</i>	coast yellow leptosiphon
<i>Mielichhoferia elongata</i>	elongate copper moss
<i>Oncorhynchus kisutch</i>	coho salmon - central California coast ESU
<i>Pomatiopsis binneyi</i>	robust walker
<i>Rallus longirostris obsoletus</i>	California clapper rail
<i>Rana draytonii</i>	California red-legged frog
<i>Taxidea taxus</i>	American badger
<i>Vespericola marinensis</i>	Marin hesperian

DILLON BEACH	
Scientific Name	Common Name
<i>Agelaius tricolor</i>	tricolored blackbird
<i>Agrostis blasdalei</i>	Blasdale's bent grass
<i>Ardea alba</i>	great egret
<i>Ardea herodias</i>	great blue heron
<i>Callophrys mossii bayensis</i>	San Bruno elfin butterfly
<i>Calystegia purpurata ssp. saxicola</i>	coastal bluff morning-glory
<i>Chloropyron maritimum ssp. palustre</i>	Point Reyes bird's-beak
<i>Chorizanthe cuspidata var. cuspidata</i>	San Francisco Bay spineflower
<i>Chorizanthe cuspidata var. villosa</i>	woolly-headed spineflower
<i>Cirsium andrewsii</i>	Franciscan thistle
Coastal Brackish Marsh	Coastal Brackish Marsh
<i>Coelus globosus</i>	globose dune beetle
<i>Cypseloides niger</i>	black swift
<i>Danaus plexippus</i>	monarch butterfly
<i>Delphinium luteum</i>	golden larkspur
<i>Gilia capitata ssp. chamissonis</i>	blue coast gilia
<i>Hesperevax sparsiflora var. brevifolia</i>	short-leaved evax
<i>Ischnura gemina</i>	San Francisco forktail damselfly
<i>Lasthenia californica ssp. bakeri</i>	Baker's goldfields
<i>Lasthenia californica ssp. macrantha</i>	perennial goldfields
<i>Leptosiphon rosaceus</i>	rose leptosiphon
<i>Lichnanthe ursina</i>	bumblebee scarab beetle
<i>Microseris paludosa</i>	marsh microseris
<i>Rana draytonii</i>	California red-legged frog
<i>Sidalcea malviflora ssp. purpurea</i>	purple-stemmed checkerbloom
<i>Speyeria zerene myrtleae</i>	Myrtle's silverspot
<i>Thamnia vermicularis</i>	thamnia lichen
<i>Trifolium amoenum</i>	showy rancheria clover
<i>Vespericola marinensis</i>	Marin hesperian

MARSHALL	
Scientific Name	Common Name
<i>Agelaius tricolor</i>	tricolored blackbird
<i>Chloropyron maritimum ssp. palustre</i>	Point Reyes bird's-beak
<i>Cirsium andrewsii</i>	Franciscan thistle
<i>Fritillaria liliacea</i>	fragrant fritillary
<i>Laterallus jamaicensis coturniculus</i>	California black rail
<i>Polygonum marinense</i>	Marin knotweed

MUIR BEACH	
Scientific Name	Common Name
<i>Danaus plexippus</i>	monarch butterfly
<i>Danaus plexippus</i>	monarch butterfly
<i>Emys marmorata</i>	western pond turtle
<i>Oncorhynchus kisutch</i>	coho salmon - central California coast ESU
<i>Rana draytonii</i>	California red-legged frog

OLEMA, INVERNESS, POINT REYES STATION	
Scientific Name	Common Name
<i>Alopecurus aequalis</i> var. <i>sonomensis</i>	Sonoma alopecurus
<i>Antrozous pallidus</i>	pallid bat
<i>Aplodontia rufa phaea</i>	Point Reyes mountain beaver
<i>Arctostaphylos virgata</i>	Marin manzanita
<i>Ardea alba</i>	great egret
<i>Ardea herodias</i>	great blue heron
<i>Ardea herodias</i>	great blue heron
<i>Astragalus pycnostachyus</i> var. <i>pycnostachyus</i>	coastal marsh milk-vetch
<i>Campanula californica</i>	swamp harebell
<i>Carex leptalea</i>	bristle-stalked sedge
<i>Carex lyngbyei</i>	Lyngbye's sedge
<i>Carex lyngbyei</i>	Lyngbye's sedge
<i>Carex lyngbyei</i>	Lyngbye's sedge
<i>Castilleja ambigua</i> ssp. <i>humboldtiensis</i>	Humboldt Bay owl's-clover
<i>Ceanothus gloriosus</i> var. <i>porrectus</i>	Mt. Vision ceanothus
<i>Charadrius alexandrinus nivosus</i>	western snowy plover
<i>Chloropyron maritimum</i> ssp. <i>palustre</i>	Point Reyes bird's-beak
<i>Cicuta maculata</i> var. <i>bolanderi</i>	Bolander's water-hemlock
<i>Cirsium andrewsii</i>	Franciscan thistle
<i>Dendroica petechia brewsteri</i>	yellow warbler
<i>Dirca occidentalis</i>	western leatherwood
<i>Emys marmorata</i>	western pond turtle
<i>Eucyclogobius newberryi</i>	tidewater goby
<i>Fritillaria lanceolata</i> var. <i>tristulis</i>	Marin checker lily
<i>Fritillaria liliacea</i>	fragrant fritillary
<i>Geothlypis trichas sinuosa</i>	saltmarsh common yellowthroat
<i>Hemizonia congesta</i> ssp. <i>congesta</i>	seaside tarplant
<i>Horkelia marinensis</i>	Point Reyes horkelia
<i>Lasionycteris noctivagans</i>	silver-haired bat
<i>Lasiurus blossevillii</i>	western red bat
<i>Lasiurus cinereus</i>	hoary bat
<i>Lasthenia californica</i> ssp. <i>macrantha</i>	perennial goldfields
<i>Laterallus jamaicensis coturniculus</i>	California black rail
<i>Lavinia symmetricus</i> ssp. 2	Tomales roach
<i>Lichnanthe ursina</i>	bumblebee scarab beetle
<i>Lilaeopsis masonii</i>	Mason's lilaeopsis
<i>Lilium maritimum</i>	coast lily
<i>Microseris paludosa</i>	marsh microseris
Northern Coastal Salt Marsh	Northern Coastal Salt Marsh
Northern Maritime Chaparral	Northern Maritime Chaparral
<i>Oncorhynchus kisutch</i>	coho salmon - central California coast ESU
<i>Oncorhynchus mykiss irideus</i>	steelhead - central California coast DPS
<i>Pandion haliaetus</i>	osprey
<i>Phacelia insularis</i> var. <i>continentis</i>	North Coast phacelia
<i>Polygonum marinense</i>	Marin knotweed
<i>Rana draytonii</i>	California red-legged frog
<i>Rhynchospora californica</i>	California beaked-rush
<i>Sidalcea calycosa</i> ssp. <i>rhizomata</i>	Point Reyes checkerbloom
<i>Syncaris pacifica</i>	California freshwater shrimp
<i>Taxidea taxus</i>	American badger
<i>Trifolium amoenum</i>	showy rancheria clover
<i>Triquetrella californica</i>	coastal triquetrella
<i>Vespericola marinensis</i>	Marin hesperian

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Carmen Fewless)
MEETING DATE: June 8, 2011

ITEM: 6

SUBJECT: **Grazing Operations in the Tomales Bay Watershed** - Status Report on Waiver of Waste Discharge Requirements

CHRONOLOGY: July 2008 - Board adopted the Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Tomales Bay Watershed (Grazing Waiver)

DISCUSSION: *Summary:* We are seeing substantial progress in implementation of the Tomales Bay Watershed Grazing Waiver (Appendix A). Nearly all active grazing lands in the Tomales Bay watershed are now covered by the Grazing Waiver. A partnership of entities in the watershed is providing valuable compliance assistance to ranchers, and grant and contract funds have been awarded to assist the ranchers.

Background: The Grazing Waiver implements the Tomales Bay Pathogen Total Maximum Daily Load (TMDL) and the Walker Creek Mercury TMDL, adopted by the Board, and the State Water Board's Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program. The goals of the Grazing Waiver are to improve and protect water quality and biological resources while promoting sustainable grazing. Stormwater discharges from poorly managed grazing operations may contain pathogens, ammonia, salts, and excess sediment.

The Grazing Waiver applies to grazing parcels 50 acres or greater in size and requires landowners/operators (ranchers) to evaluate their grazing practices and to prepare and implement a comprehensive land management plan (Ranch Water Quality Plan) with appropriate management practices. The Plans are held at the facility and must be made available for inspection by Board staff. Ranchers are required to submit an Annual Certification and Compliance Monitoring Report by November 15 each year.

Status: We identified 241 active grazing parcels 50 acres or greater in size in the Tomales Bay Watershed based on a database provided by Marin County, and ranchers that own or operate on 230 of them have obtained coverage under the Grazing Waiver (95% enrollment rate). In 2009, we received annual reports covering 85% of enrolled parcels. In 2010, the submittal rate declined to 65% of enrolled parcels. In response, we issued Notices to Comply in February 2011 to the associated ranchers, which will result in annual reports for all but six parcels (97% submittal rate). Our next steps include potential further enforcement action such as sending Notices of Violation to those parcels that have failed to submit an annual report and coupling that effort with targeted field inspections.

We are creating a set of comprehensive GIS maps that will facilitate implementation efforts such as outreach, compliance, complaint response, yearly inspections, etc. The original database contained only parcel numbers, not physical addresses, making it unfeasible for us to find the location of a given parcel. When the maps are complete, we will visit the 11 parcels that are not yet covered by the Grazing Waiver, and, if they are indeed active grazing parcels, we will pursue enforcement.

Outreach: We have used a multi-pronged approach to reach and educate ranchers about the requirements and goals of the Grazing Waiver program. In addition to traditional public meetings, we have participated in various workshops hosted by local agricultural entities that were intended to assist ranchers with understanding the Grazing Waiver and complying with its requirements. In addition, we sent courtesy notification packages to ranchers targeted for coverage. These packages contained a letter that re-introduced the Grazing Waiver, provided a list of key requirements and submittal deadlines, provided a web-link to our Grazing Waiver program, and presented staff contact information.

Partnership: The Marin County Resource Conservation District (RCD), Marin Farm Bureau, Marin Agricultural Land Trust, California Cattlemen's Association, Western United Dairymen, University of California Cooperative Extension, Point Reyes National Seashore and the USDA Natural Resources Conservation Service have convened the Tomales Bay Watershed Grazing Land Partnership. The Partnership provides Grazing Waiver compliance assistance and has provided a bridge for us to reach ranchers in the watershed.

Funding: The State Water Board has awarded substantial funding to help ranchers comply with Grazing Waiver requirements. Two grants totaling \$1.425 million were awarded to the Marin RCD and a grant of \$455,000 was awarded to the Point Reyes National Seashore to implement grazing management practices on ranches within the Seashore. In addition, two contracts totaling \$230,000 from the State Board's Cleanup and Abatement Account were awarded to the Marin RCD to assist landowners within the Walker Creek watershed, which drains to Tomales Bay, with implementation of grazing management practices that address mercury, pathogen, sediment, and nutrient discharges.

Lessons Learned: Implementation of the Grazing Waiver has not been entirely smooth; there have been some issues with the information listed in the parcel database, and as a consequence, we have occasionally reached the wrong rancher or have sent documents to the wrong address. We are working on a more efficient way to identify and reach ranchers and account for submittals with the goal of making the reporting process as simple as possible. Also, our experience gained during the development and implementation of the Grazing Waiver has been valuable in the development of a grazing waiver for the Napa River and the Sonoma Creek watersheds that we will present to the Board for consideration later this year.

The waiver program is gaining acceptance by the regulated community. A big part of that success is rooted in the local relationships established with the Partnership, the substantial amount of technical assistance provided to ranchers that we and the Partnership are providing, and the success of partners in obtaining grants to assist the ranchers. The waiver program's success has also been noted in two recent publications: [*California's Rangeland Water Quality Management Plan: An Update*](#); and [*Opportunities to sustain "greener" farming: comparing impacts of water quality regulations in two catchments*](#).

RECOMMEN-
DATION: No action is necessary at this time.

Appendix A: [Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Tomales Bay Watershed](#)

CHAPTER 22.62 – TREE REMOVAL PERMITS

Sections:

22.62.010 – Purpose of Chapter

22.62.020 – Applicability

22.62.030 – Application, Filing, Processing, and Noticing

22.62.040 – Prohibition on Removal of Protected Trees

22.62.050 – Exemptions

22.62.060 – Decision and Findings for a Tree Removal Permit

22.62.010 – Purpose of Chapter

The purpose of this chapter is to establish regulations for the preservation and protection of native trees in the unincorporated areas of Marin County by limiting tree removal in a manner which allows for reasonable use and enjoyment of such property and to establish a procedure for processing Tree Removal Permits.

22.62.020 – Applicability

This Chapter applies only to “protected and heritage trees” as defined in Article VIII (Definitions) on improved and unimproved lots as defined in Article VIII in the non-agricultural unincorporated areas of Marin County. Protected and heritage trees may be removed in specific circumstances as stated in Section 22.62.050 (Exemptions) without triggering a requirement for a permit. Woodlands shall be managed and trees shall be preserved or replaced in compliance with Chapter 22.27 (Native Tree Protection and Preservation).

22.62.030 – Application, Filing, Processing, and Noticing

- A. **Purpose.** This Section provides procedures for filing, processing, and noticing of Tree Removal Permit applications.
- B. **Filing and processing.** All Tree Removal Permit applications shall be completed, submitted, and processed in compliance with Chapter 22.40 (Application Filing and Processing, Fees) and Section 22.40.050 (Initial Application Review for Discretionary Permits).
- C. **Notice of action.** Administrative decisions on a proposed Tree Removal Permit application shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).

22.62.050 – Exemptions

Prior to The removal of any protected or heritage tree on a lot, the property owner must demonstrate to the satisfaction of the Director that the proposed work is exempt from the requirements of this Chapter if because it meets at least one of the following criteria for removal:

- A. The general health of the tree is so poor due to disease, damage, or age that efforts to ensure its long-term health and survival are unlikely to be successful;
- B. The tree is infected by a pathogen or attacked by insects that threaten surrounding trees as determined by an arborist report or other qualified professional;

C. The tree is a potential public health and safety hazard due to the risk of its falling and its structural instability cannot be remedied;

D. The tree is a public nuisance by causing damage to improvements, such as building foundations, retaining walls, roadways/driveways, patios, sidewalks and decks, or interfering with the operation, repair, or maintenance of public utilities;

E. The tree has been identified by a Fire Inspector as a fire hazard;

F. The tree was planted for a commercial tree enterprise, such as Christmas tree farms or orchards;

G. Prohibiting the removal of the tree will conflict with CC&R's which existed at the time this Chapter was adopted;

H. The tree is located on land which is zoned for agriculture (A, ARP, APZ, C-ARP or C-APZ) and that is being used for commercial agricultural purposes. (This criterion is provided to recognize the agricultural property owner's need to manage these large properties and continue their efforts to be good stewards of the land.);

I. The tree removal is by a public agency to provide for the routine management and maintenance of public land or to construct a fuel break;

J. The tree removal is on a developed lot and: 1) does not exceed two protected trees within a one-year timeframe; 2) does not entail the removal of any heritage trees; and 3) does not entail the removal of any protected or heritage trees within a Stream Conservation Area or a Wetland Conservation Area.

The Director may require submittal of documentation, including an arborist report, to demonstrate that the proposed tree removal is exempt from the requirements of this chapter. It is recommended that a property owner obtain an arborist report from a licensed arborist or verify the status of the tree with photographs to document the applicability of the criteria listed above to a tree which is considered for removal in compliance with this section.

22.62.060 – Decision and Findings for a Tree Removal Permit

In considering a Tree Removal Permit application, the Director may only grant approval or conditional approval based on a finding that removal of the tree(s) is necessary for the reasonable use and enjoyment of land under current zoning regulations and Countywide Plan and Community Plan (if applicable) policies and programs, taking into consideration the following criteria:

- A. Whether the preservation of the tree would unreasonably interfere with the development of land;
- B. The number, species, size and location of trees remaining in the immediate area of the subject property;
- C. The number of healthy trees that the subject property can support;
- D. The topography of the surrounding land and the effects of tree removal on soil stability, erosion, and increased runoff;
- E. The value of the tree to the surrounding area with respect to visual resources, maintenance of privacy between adjoining properties, and wind screening;
- F. The potential for removal of a protected or heritage tree to cause a significant adverse effect on wildlife species listed as threatened or endangered by State or Federal resource agencies in compliance with the California Environmental Quality Act (CEQA);
- G. Whether there are alternatives that would allow for the preservation of the tree(s), such as relocating proposed improvements, use of retaining walls, use of pier and grade beam foundations, paving with a permeable substance, the use of tree care practices, etc.