



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

STAFF REPORT TO THE PLANNING COMMISSION
LOCAL COASTAL PROGRAM AMENDMENT
LCP Amendment (LCPA) PC Adoption

Item No: 7
Hearing Date: February 13, 2012
Planners: Jack Liebster, Principal Planner
Kristin Drumm, AICP, Senior Planner
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RECOMMENDATION:

1. Approve January 23, 2012 Decision Table (Attachment 1);
2. Conduct public hearing;
3. Approve the changes to the LCPA (Attachment 2) requested January 23, 2012; and
4. Consider and Adopt the Resolution recommending the LCP Amendments to the Board of Supervisors.

SUMMARY RECOMMENDATION:

Today's hearing is the ninth Planning Commission hearing on Marin County's Local Coastal Program Amendment (LCPA). The LCPA includes Land Use Plan (LUP) and Development Code Amendments. This hearing will confirm changes made by the Commission at the January 23, 2012 hearing, address carryover issues regarding Major Vegetation Removal, Agriculture, and Wind Energy; and consider and adopt a Resolution recommending the LCP Amendments for approval by the Board of Supervisors.

The Planning Commission and the participating public have worked diligently and skillfully during this long journey to develop amendments that will make the Local Coastal Program more effective in protecting coastal resources and more focused on actions that deliver meaningful results. The action the Commission will take today represents a significant achievement and a crucial milestone on the road of sustainable stewardship of Marin's exceptional coast.

BACKGROUND:

The following attachments are provided for your review:

Attachment #1 is a Summary Decision Table documenting the changed wording the Planning Commission made to the draft LCP policies at the January 23, 2012 hearing. These revisions

are highlighted. Attachment 1 also shows additional ~~strike-outs~~ and underlines to identify changes staff proposed in the January 23, 2012 staff report that the Planning Commission approved as submitted. Thus, aside from confirming that the highlighted changes were made correctly, the Planning Commission has completed action on these items.

Attachment #2 pertains to carryover items from the January 23, 2012 meeting. On these items, the Planning Commission asked staff to develop modified language to reflect the specific intentions and objectives expressed by the Commission. The highlighted areas show the changes recommended by staff in response to the Commission's direction.

In order to present the Commission with a complete LCPA, these few items were also included in the full document as shown in Attachment #2. If the Commission makes any changes to these recommendations, the LCPA document will be updated to reflect such changes with an inserted Errata sheet.

Attachment #3 is the draft Resolution of the Planning Commission recommending that the Board of Supervisors adopt the Marin County Local Coastal Program Amendments.

RECOMMENDATION:

Staff recommends the hearing be conducted as follows:

- Planning Commission adoption of the January 23, 2012 Decision Table;
- Staff presentation of the carryover issues and Resolution;
- Public testimony (per adopted protocols attached: 3 minutes per individual, 6 minutes per organization);
- Close public testimony and conduct Commission deliberations;
- Approve proposed changes to carryover issues; and
- Adopt Resolution recommending approval of the LCPA to the Board.

ATTACHMENTS:

1. January 23, 2012 Decision Table;
2. Recommended changes to carryover issues; and
3. Resolution Recommending that the Board of Supervisors Adopt the Marin County Local; Coastal Program Amendments.

DRAFT
Planning Commission Tentative Decision Table
January 23, 2012
LCP Hearing on Carryover Issues

APPROVED by Planning Commission: *[insert date]*

The items in **highlighted strike-out and underline** format document changes made by the Planning Commission to the working draft of the LCP at the January 23, 2012 hearing. Other ~~strike-outs~~ and underlines indicate changes proposed in the January 23, 2012 staff report materials and approved by the PC.

Biological Resources (BIO)
<p><u>Biological Resources Chapter - Background</u></p> <p>The Planning Commission approved staff's recommended changes to the Background section for Biological Resources as proposed in the 1/23/12 staff report, with additional changes as shown (highlighted):</p> <p style="text-align: center;">Biological Resources - Background:</p> <p>...</p> <p>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. <u>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</u> move through the lagoon to access streams in the watershed.</p> <p>...</p>
<p><u>Policy C-BIO-1 Environmentally Sensitive Habitat Areas; and</u> <u>Policy C-BIO-3 Environmentally Sensitive Habitats of Rare or Endangered Species and Unique Plant Communities.</u></p> <p>The Planning Commission approved staff's recommendation to revise Policies C-BIO-1 and C-BIO-3 as proposed in the 1/23/12 staff report.</p>
<p><u>Policy C-BIO-4 Alteration of Land Forms.</u></p> <p>See the section for "Major Vegetation Removal in the Coastal Zone" below.</p>
<p><u>Program C-BIO-5.b Expand Environmentally Sensitive Habitat Areas.</u></p> <p>The Planning Commission requested that staff restore the original language of Program C-BIO-5.b as proposed in the June 2011 Public Review Draft of the LCP, with modifications as shown (highlighted):</p> <p style="text-align: center;"><i>Program C-BIO-5.b Expand Environmentally Sensitive Habitat Areas.</i> Encourage the expansion of environmentally sensitive habitat areas by establishing criteria that would allow <u>property owners affected properties</u> to remain subject to <u>the pre-existing</u> buffers from the pre-</p>

existing edge of the habitat area rather than from the edge of the expanded habitat area.

Policy C-BIO-14 Wetlands.

The Planning Commission approved staff's recommended changes to Policy C-BIO-14, with additional modifications as shown (highlighted):

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 new areas where a grazing land ranch plan has been approved by the California Regional Water Quality Control Board, or where the landowner has partnered demonstrates to the County's satisfaction that they have developed and implemented management measures to prevent adverse impacts to wetland functions and resources such as by partnering 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.

Environmental Hazards (EH)

Environmental Hazards Chapter – Background

The Planning Commission approved staff's recommended changes to the Background section for Environmental Hazards as proposed in the 1/23/12 staff report.

Policy C-EH-13 Shoreline Protective Devices

The Planning Commission approved Policy C-EH-13 with modifications to item #8 as shown (highlighted):

C-EH-13 Shoreline Protective Devices.

...

8. The shoreline protective device is may be authorized for a specified period of time, twenty years from the date of approval depending on the nature of the project and other possible changing conditions. Maintenance beyond the twenty-year specified time period, modification, or expansion of the approved device shall require approval of an amendment to the Coastal Permit.

Mariculture (MAR)

Policy C-MAR-2 Mariculture in the Parks

The Planning Commission requested that staff delete Policy C-MAR-2 from the Land Use Plan.

~~**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.~~

Water Resources (WR)

Water Resources Chapter – Background

The Planning Commission approved staff's recommended changes to the Background section for Water Resources as proposed in the 1/23/12 staff report.

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

The Planning Commission approved staff's recommended changes to Policy C-WR-2 as proposed in the 1/23/12 staff report.

Policy C-WR-3 Storm Water Runoff; and Section 22.64.080 – Water Resources.

The Planning Commission approved staff's recommended changes to Policy C-WR-3 as proposed in the 1/23/12 staff report and errata.

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

The Planning Commission approved staff's recommended changes to Policy C-WR-14, as proposed in the 1/23/12 staff report, with an additional modification as shown below (highlighted):

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

...

6. Development that will:

...

"Discharge runoff directly" is defined as runoff that flows from the development to the ocean, coastal waters, or to a stream or wetland buffer that is not first combined with flows from any other adjacent areas.

...

Section 22.64.080.A.3 – Water Resources: Application Requirements: Site Plan – Post-Construction Element.

The Planning Commission approved staff’s recommended changes to Section 22.64.080.A.3, as proposed in the 1/23/12 staff report, for consistency with the PC-approved changes to Policy C-WR-13.

Section 22.64.080.B.4 – Water Resources: Water Quality Standards: Detention and infiltration basins.

The Planning Commission approved staff’s recommendation to delete Section 22.64.080.B.4, as proposed in the 1/23/12 staff report, for consistency with the PC-approved deletion of Policy C-WR-11.

Section 22.64.080.B.8 – Water Resources: Water Quality Standards: Construction Phase Pollution.

The Planning Commission approved staff’s recommendation to add new Section 22.64.080.B.8, as proposed in the 1/23/12 staff report, for consistency with the PC-approved addition of new Policy C-WR-15.

Section 22.64.080.C.10 – Water Resources: Grading and excavation standards: Erosion and Flood Control Facilities.

The Planning Commission approved staff’s recommendation to add new Section 22.64.080.C.10 as proposed in the 1/23/12 staff report, for consistency with the PC-approved addition of new Policy C-WR-17.

Chapter 22.68 – Coastal Permit Requirements

Section 22.68.050.A.2 – Exempt Projects

The Planning Commission approved staff’s recommended changes to Section 22.68.050.A.2 as proposed in the 1/23/12 staff report.

Major Vegetation Removal in the Coastal Zone

To address the removal of major vegetation in the 1/23/12 staff report, staff proposed changes to Policy C-BIO-4 and to the definition of “Major Vegetation.” Staff also proposed new Programs C-BIO-4.a and -4.b, new Policy C-EH-24, and new Section 22.64.060.B.10. The Planning Commission requested that staff make the following changes:

- Revise definition of “Major Vegetation” to add reference to “defensible space” and add exception for ornamental vegetation.
- Revise Section 22.64.060.B.10 to replace all references to “tree” with “major vegetation” and move item #11 up to #1 (renumbered as “a” – “k” for consistency with development code).
- Replace “aesthetically important” with a clearer term.
- Confirm that a Coastal Permit *and* Tree Removal Permit would never both be required for the

same vegetation removal.

Staff will revise as directed and bring this back to the Planning Commission for review at the February 13, 2012 hearing.

Agriculture (AG)

Agriculture was not addressed in the 1/23/12 Staff Report, but was brought up for discussion during review of the Errata and Supplemental Materials at the 1/23/12 Planning Commission hearing. At that time, the Commission requested further changes as noted below.

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

With the exception of item "5.a," the Planning Commission approved staff's recommendation to delete most of Program C-AG-2.e, since it has been completed and implemented by proposed Development Code Sections 22.32.026 (Agricultural Processing Uses) and 22.32.027 (Agricultural Retail Sales and Facilities (coastal)). The Commission further requested that staff draft a new policy to introduce the revised program to follow, based on the remaining language of item 5.a regarding "Community-specific retail sales." Staff will adjust this section and bring it back to the Planning Commission for review at the February 13, 2012 hearing.

Policy C-AG-7 Development Standards for Agricultural Production Zone (C-APZ) Lands.

The Planning Commission approved staff's recommended changes to Policy C-AG-7 as proposed in the errata and supplemental enclosure #4 to the 1/23/12 staff report, with a further modification to change "enhance" to "maintain" in item A.1.

Section 22.65.040 – C-APZ Zoning District Standards

The Planning Commission approved staff's recommended changes to Section 22.65.040 as proposed in the supplemental enclosure #4 to the 1/23/12 staff report, with further modifications as shown below (highlighted):

22.65.040 - C-APZ Zoning District Standards

...

C. Development standards

...

1. Standards for agricultural uses:

- a. Permitted development shall protect and ~~enhance~~ **maintain** continued agricultural use, and contribute to agricultural viability.
- b. Development shall be permitted only where adequate water supply, sewage disposal, road access and capacity and other public services are available to support the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats, **have significant effects on groundwater resources**, or significantly reduce freshwater inflows to water bodies including but not limited to Tomales Bay, either individually or cumulatively. ~~The proposed development will. Permitted development shall have no significant adverse impacts on environmental quality or natural habitats, and shall meet all other applicable policies, consistent with the LCP.~~

...

2. Standards for Non-Agricultural Uses:

...
c. Required findings.

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

Wind Energy Conversion Systems (WECS) (coastal)

WECS was not addressed in the 1/23/12 Staff Report, but was brought up for discussion during review of the Supplemental Materials (Enclosure #4) at the 1/23/12 Planning Commission hearing. At that time, the Commission requested further changes as noted below.

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

The Planning Commission approved staff's recommended changes to Section 22.32.190 as shown in the supplemental enclosure #4 to the 1/23/12 staff report, and requested further modifications to limit Small and Medium Freestanding WECS to only be allowed in coastal agricultural zoning districts (C-ARP and C-APZ). Staff will revise as directed and bring this back to the Planning Commission for review at the February 13, 2012 hearing.

**ATTACHMENT #2
February 13, 2012 Staff Report**

This document provides staff responses to select carryover items from the January 23, 2012 Planning Commission hearing. This includes the topics of Major Vegetation removal, Agriculture, and Wind Energy Conversion Systems (WECS) (coastal). The items in **highlighted strike-out and underline** format below are new changes made to the Draft LCP Amendments, as requested by the Planning Commission at the January 23, 2012 hearing. Other ~~strike-outs~~ and underlines (not highlighted) indicate changes proposed in the January 23, 2012 staff report materials and approved by the PC.

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Major Vegetation Removal in the Coastal Zone

To address the removal of major vegetation in the 1/23/12 staff report, staff proposed changes to Policy C-BIO-4 and to the definition of “Major Vegetation.” Staff also proposed new Programs C-BIO-4.a and C-BIO-4.b, new Policy C-EH-24, and new Section 22.64.060.B.10, for addition to the Draft LCP Amendments. At the 1/23/12 hearing, the Planning Commission requested that staff do the following:

- Revise definition of “Major Vegetation” to add reference to “defensible space” and add exception for ornamental vegetation. (changes shown highlighted below)
- Revise Section 22.64.060.B.10 to replace all references to “tree” with “major vegetation” and move item #11 up to #1 (renumbered as “a” – “k” for consistency with development code). (changes shown highlighted below)
- Replace “aesthetically important” with a clearer term. (changes shown highlighted below)
- In addition, staff recommends certain uses of the terms “maintenance” and “modification” be replaced where appropriate with “management or removal,” consistent with the Coastal Act definition of development which refers to the “removal or harvesting of major vegetation.” (changes shown highlighted below)
- Confirm that a Coastal Permit *and* Tree Removal Permit would never both be required for the same vegetation removal.

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 or removal 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 Visually Prominent Vegetation. Develop a process for defining heritage trees and vegetation that is aesthetically important visually prominent or part of a significant view or viewshed, and for mapping areas in the Coastal Zone that contain such vegetation.

Program C-BIO-4b: Integrated Planning for Fire Risk, Habitat Protection, and Forest Health. Develop a Coastal Permit process that protects coastal resources and allows for expedited review of projects related to the modification management or removal of major vegetation to minimize risks to life and property.

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 management or removal of major vegetation.

Section 22.64.060.B.10 – Environmental Hazard Standards

Coastal Permit applications for the maintenance management or removal of major vegetation must meet section “a” below, and at least one of criteria 1-b through 10-k, and number 11 for removal:

11a. The tree major vegetation removal does not: (1a) adversely affect any environmentally sensitive habitat areas; (2b) adversely impact coastal waters; (3e) adversely impact public views; and e) (4) conflict with prior conditions of approval of a prior coastal permit.

1b. The general health of the tree major vegetation is so poor due to disease, damage, or age that efforts to ensure its long-term health and survival are unlikely to be successful;

2c. The tree major vegetation is infected by a pathogen or attacked by insects that threaten surrounding tree major vegetation as determined by an arborist report or other qualified professional;

3d. The tree major vegetation is a potential public health and safety hazard due to the risk of it falling, and its structural instability cannot be remedied;

4e. The tree major vegetation 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;

5f. The tree major vegetation has been identified by a Fire Inspector as a fire hazard, and that requires removal;

6g. The tree major vegetation was planted for a commercial enterprise, such as a Christmas tree farms or orchards;

7h. Prohibiting the removal of the tree major vegetation will conflict with CC&R’s which existed at the time this Chapter was adopted;

8i. The tree major vegetation is located on land which is zoned for agriculture (C-ARP or C-APZ) and is being used for commercial agricultural purposes;

9j. The tree major vegetation removal is proposed by a public agency to provide for the routine management and maintenance of public land or to construct a fuel break;

10k. The tree major vegetation is non-native and is not defined as a “protected and heritage tree” in Article VIII (Definitions)

Major Vegetation (coastal). Any vegetation on a beach or wetland, or sand dune, or within 400 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, visually prominent and a significant part of the viewshed. Agricultural croplands and pastures and non-native ornamental vegetation are not considered to be major vegetation. The removal of vegetation for defensible space, including 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.

Agriculture (AG)

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

The Planning Commission requested that staff draft a new policy for Program C-AG-2-e below, based on the remaining language of part 5.a (shown). As with the original program, this still falls under Policy C-AG-2, so no additional policy is required. The program is renumbered and re-titled as shown.

Program C-AG-2.e Establish Criteria for On-site Agricultural Sales and Processing 5. Community-specific Retail Sales Policies.

- a. Policies should be developed in the LCP's Community Development section, as appropriate, to address the concerns of specific communities with respect to retail sales (roadside especially). As necessary, greater constraints on these activities could be specified for individual communities or roadway segments than the general provisions in the LCP's Agriculture section (up to and including, for example, the possibility of specifying an outright prohibition of roadside agricultural sales in a particular area or along a particular stretch of roadway).

Policy C-AG-7 Development Standards for Agricultural Production Zone (C-APZ) Lands; and

The Planning Commission approved staff's recommended changes to Policy C-AG-7 as proposed in the errata and supplemental enclosure #4 to the 1/23/12 staff report, with further modifications as shown below (highlighted):

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

1. Agricultural activities that are accessory and incidental to, in support of, and compatible with agricultural use;
2. Development that is Categorically Excluded;

3. ~~Up to two intergenerational homes; or~~
4. ~~A single family dwelling on a parcel having no residual development potential for additional dwellings, other than agricultural worker housing.~~

Proposed development in the C-APZ Zone shall be designed and constructed to preserve agricultural lands and to be consistent with all applicable standards and requirements of the Local Coastal Program, and in particular the policies of the Natural Systems and Agriculture Element of the LUP.

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

All of the following development standards apply:

1. ~~The development will~~ Permitted development shall protect and **enhance maintain** continued agricultural use, and contribute to agricultural viability.
2. ~~The development is necessary because agricultural use of the property would no longer be feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.~~
3. ~~The proposed development will not conflict with the continuation or initiation of agricultural uses on that portion of the property that is not proposed for development, on adjacent parcels, or on other agricultural parcels within one mile of the perimeter of the proposed development.~~

2 4. Development shall be permitted only where Adequate water supply, sewage disposal, road access and capacity and other public services are available to support the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats, have significant effects on groundwater resources, or significantly reduce freshwater inflows to water bodies including but not limited to Tomales Bay, either individually or cumulatively.

~~5. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development.~~

36. The proposed development will Permitted development shall have no significant adverse impacts on environmental quality or natural habitats, and shall meet all other applicable policies, consistent with the LCP.

B. Development Standards for Non-Agricultural Uses:

In addition to the standards of Section A of above, All of the following development standards apply to non-agricultural uses, including division of agricultural lands or construction of two or more dwelling units (excluding agricultural worker or intergenerational housing). The County shall determine the density of permitted residential units only upon applying Policy C-AG-6 and the following standards and making all of the findings listed below.

Required Conditions:

1. In order to retain the maximum amount of land in agricultural production or available for future agricultural use, homes, roads, residential support facilities, and other non-agricultural development shall be placed in one or more groups on a total of no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage retained in or available for agricultural production or open space. Proposed development shall be located close to existing roads, or shall not require new road construction or

improvements resulting in significant impacts on agriculture, natural topography, significant vegetation, or significant natural visual qualities of the site. Proposed development shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations, and shall be designed and sited to avoid hazardous areas. Any new parcels created shall have building envelopes outside any designated scenic protection area.

2. The creation of a homeowner's or other organization and/or the submission of an Agricultural Production and Stewardship Plan (APSP) may be required to provide for the proper utilization of agricultural lands and their availability on a lease basis or for the maintenance of the community's roads, septic or water systems.
3. Consistent with State and federal laws, a permanent agricultural conservation easement over that portion of the property not used for physical development or services shall be required for proposed land divisions, non-agricultural development, and multiple residential projects, other than agricultural worker housing or intergenerational housing, to promote the long-term preservation of these lands. Only agricultural and compatible uses shall be allowed under the easement. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that each will be retained as a single unit and are not further subdivided.
4. Proposed development shall only be approved after making the following findings:
 - a-2. The development is necessary because agricultural use of the property would no longer be feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.
 - b3. The proposed development will not conflict with the continuation or initiation of agricultural uses on that portion of the property that is not proposed for development, on adjacent parcels, or on other agricultural parcels within one mile of the perimeter of the proposed development.
 - c4. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development without extending urban services.

(PC app. 1/24/11; rev 10/10/11)

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

Section 22.65.040 – C-APZ Zoning District Standards

The Planning Commission approved staff's recommended changes to Section 22.65.040 as proposed in the supplemental enclosure #4 to the 1/23/12 staff report, with further modifications as shown below (highlighted):

22.65.040 - C-APZ Zoning District Standards

- A. Purpose.** This Section provides additional development standards for the C-APZ zoning district that are to preserve productive lands for agricultural use, and ensure that development is accessory and incidental to, in support of, and compatible with agricultural uses.
- B. Applicability.** The requirements of this Section apply to proposed development in addition to the standards established by Section 22.65.030 (Planned District General Development Standards) and Chapter 22.64 (Coastal Zone Development and Resource Management Standards), and all other applicable provisions of this Development Code.

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

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

1. Standards for agricultural uses:

- a. Permitted development shall protect and **enhance maintain** continued agricultural use, and contribute to agricultural viability.
- b. Development shall be permitted only where adequate water supply, sewage disposal, road access and capacity and other public services are available to support the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats, **have significant effects on groundwater resources**, or significantly reduce freshwater inflows to water bodies including but not limited to Tomales Bay, either individually or cumulatively. ~~The proposed development will~~ **Permitted development shall have no significant adverse impacts on environmental quality or natural habitats, and shall meet all other applicable policies, consistent with the LCP.**
- c. ~~The proposed development will~~ Permitted development shall have no significant adverse impacts on environmental quality or natural habitats, and shall meet all other applicable policies, consistent with the LCP.

~~2.4.~~ Development shall be permitted only where Adequate water supply, sewage disposal, road access and capacity and other public services are available to support the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats, have significant effects on groundwater resources, or significantly reduce freshwater inflows to water bodies including but not limited to Tomales Bay, either individually or cumulatively.

2. Standards for Non-Agricultural Uses:

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

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

mutual water systems. The Director may waive the requirement for a ~~management plan~~ APSP for a project involving an existing commercial agricultural production operation or an existing commercial agricultural property.

(1) The purpose of an Agricultural Production and Stewardship Plan prepared and submitted for land division or for residential or other non-agricultural development of C-APZ lands is to ensure that long-term agricultural productivity will occur and will substantially contribute to Marin's agricultural industry. Such a plan shall clearly identify and describe existing and planned agricultural uses for the property, explain in detail their implementation, identify on-site resources and agricultural infrastructure, identify product markets and processing facilities (if appropriate), and demonstrate how the planned agricultural uses substantially contribute to Marin's agricultural industry. An Agricultural Production and Stewardship Plan shall provide evidence that at least 95% of the land will remain in agricultural production or natural resource protection and shall identify stewardship activities to be undertaken to protect agriculture and natural resources. An Agricultural Production and Stewardship Plan shall be prepared by qualified professionals with appropriate expertise in agriculture, land stewardship, range management, and natural resource protection. The approval of a development proposal that includes an Agricultural Production and Stewardship Plan shall include conditions ensuring the proper, long-term implementation of the plan.

(2) The requirement for an Agricultural Production and Stewardship Plan shall not apply to agricultural worker housing or to permitted intergenerational homes and may be waived for residences and residential accessory buildings or structures to be occupied or used by the property owner(s) or lessee who is directly engaged in the production on the property of agricultural commodities for commercial purposes. It may also be waived for non-agricultural land uses when the County finds that the proposal will enhance current or future agricultural use of the property and will not convert the property to primarily residential or other non-agricultural use, as evidenced by such factors as bona fide commercial agricultural production on the property, the applicant's history and experience in production agriculture, and the fact that agricultural infrastructure (such as fencing, processing facilities, marketing mechanisms, agricultural worker housing, or agricultural land leasing opportunities) has been established or will be enhanced.

(3) Projects subject to the potential requirement of preparing an Agricultural Production and Stewardship Plan should be referred to such individuals or groups with agricultural expertise as appropriate for analysis and a recommendation. Such individuals or groups should also be requested to periodically review and evaluate the effectiveness of the Agricultural Production and Stewardship Plan program.

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

(1) The proposed development is necessary because the agricultural use of the property is no longer feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease the hardship and enhance agricultural operations on the remainder of the property.

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

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

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

Wind Energy Conversion Systems (WECS) (coastal)

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

The Planning Commission approved staff's recommended changes to Section 22.32.190 as shown in the supplemental enclosure #4 to the 1/23/12 staff report, and requested further modifications to limit Small and Medium Freestanding WECS to coastal agricultural zoning districts (C-ARP and C-APZ). New changes are shown highlighted below.

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

This Section establishes permit requirements for coastal planned district and coastal conventional district zones and standards for the development and operation of Wind Energy Conversion Systems (WECS) in compliance with Marin County policies and State and Federal laws and allows and encourages the safe, effective, and efficient use of WECS in order to reduce consumption of utility-supplied electricity from non-renewable sources.

A. **Permit requirements.** Small **and Medium Roof-Mounted** Wind Energy Conversion Systems (WECS) are allowed in all coastal zoning districts, subject to the following general requirements. **Small and Medium Freestanding WECS are allowed only in coastal agricultural zoning districts (C-ARP, C-APZ), subject to the following general requirements.** Large WECS are prohibited in all coastal zoning districts.

1. Coastal Zoning Districts.

a. Small Roof-Mounted WECS.

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

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

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

e.b. Small Freestanding WECS.

- i. Allowed as a Permitted Use only in all coastal agricultural zoning districts (C-ARP, C-APZ); and
- ii. Subject to development standards in Section 22.32.190.B.2 and Section 22.32.190.B.4.

d.c. Medium Freestanding WECS (coastal).

- i. Allowed as a Permitted Use only in all coastal agricultural zoning districts (C-ARP, C-APZ) in the Coastal, Wind Energy “-WE” except the Coastal Scenic Corridor “-SC” Combining District; and
- ~~ii. Prohibited in the Coastal Scenic Corridor “-SC” Combining District; and~~
- ~~iii.~~ ii. Subject to development standards in Section 22.32.190.B.3 and Section 22.32.190.B.4.

e.d. Large Freestanding WECS (coastal).

- i. Prohibited in all coastal zoning districts.

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

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

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

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

B. Development standards.

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

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

3. Medium Freestanding WECS (coastal). Medium Freestanding WECS (coastal) shall be

subject to the development standards in Section 22.32.190.B.4, Table 3-10 and shall comply with the development standards and requirements contained in Section 22.32.190.C through Section 22.32.190.H.

4. Summary of Development Standards.

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

	Small			Medium (coastal)	
	Roof-Mounted	Non-Grid-Tied Agricultural		Freestanding	
Total Height	≤10 feet (above roof line)	≤40 feet (above grade)	>40 – ≤100 feet (above grade) ¹	≤ 40 feet	>40 - ≤100 feet (above grade) ¹
Min. Height of Lowest Position of Blade Above Grade	Not Applicable	15 feet	15 feet	15 feet	15 feet
Max. Rotor Blade Radius (HAWT)/ Max. Rotor Blade Diameter (VAWT)	7.5 feet/5 feet	0.5 x tower height/5 feet	0.5 x tower height/5 feet	0.5 x tower height/5 feet	0.5 x tower height
Min. Setback from Tip of Blade to Property Line²	0.5 x total height	0.5 x total height	0.5 x total height	0.5 x total height	1 x total height
Max. Units/Parcel	1	4	4	1	2
Min. Unit Separation	Not Applicable	Not Applicable	Not Applicable	Not Applicable	1 x tower height
Min. Setback from Habitable Structures²	Not Applicable	1 x total height	1 x total height	1 x total height	1 x total height
Min. Setback from Prominent Ridgeline²	Not Applicable	Not Applicable	Minimum of 300 feet horizontally or 100 feet vertically	Not Applicable	Minimum of 300 feet horizontally or 100 feet vertically

¹ Medium Freestanding WECS (coastal) are only allowed in the Coastal, Scenic Corridor “SC” Wind Energy “-WE” Combining District, all-where WECS projects are limited allowed up to a maximum total height of 40 100 feet above grade (see Sections 22.62.090 and 22.64.045).

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

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

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

D. Site and design requirements:

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

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

E. Appearance and visibility:

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

1. WECS that exceed 40 feet in total height shall be located downslope a minimum of 300 feet horizontally or 100 feet vertically, whichever is more restrictive, from a visually prominent ridgeline, unless it can be demonstrated through submittal of a County accepted Wind Measurement Study that no other suitable locations are available on the site. If this is the case, then the Wind Measurement Study will be one amongst all other standards that would be evaluated in considering whether and where the WECS application should be approved within the ridge setbacks.
2. WECS shall be designed and located to minimize adverse visual impacts from public viewing areas such as highways, roads, beaches, parks, coastal trails and accessways, vista points, and coastal streams and waters used for recreational purposes."
3. No wind turbine, tower, or other component associated with a WECS may be used to advertise or promote any product or service. Brand names or advertising associated with any WECS installation shall not be visible from offsite locations. Only appropriate signs warning of the WECS installation are allowed.
4. Colors and surface treatments, materials and finishes of the WECS and supporting structures

shall minimize visual disruption. Exterior materials, surfaces, and finishes shall be non-reflective to reduce visual impacts.

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

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

Development” (California Energy Commission and California Department of Fish and Game), or any superseding State or Federal Guidelines, the State Natural Diversity Data Base, Partners in Flight Data Base, the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and field data and counts from local environmental groups. The Bird and Bat Study shall identify any listed State or Federal threatened or endangered species, California Department of Fish and Game designated bird or bat ‘species of special concern’ or ‘Fully Protected species’, or raptors found to nest or roost in the area of the proposed WECS site. The study shall identify any avian migratory concentration points in the area of the proposed WECS site. The study shall identify periods of migration and roosting and assess pre-construction site conditions and proposed tree removal of potential roosting sites. The Community Development Agency will maintain on the Agency’s website an inventory of all Bird and Bat Studies that are filed pursuant to the requirements of the WECS ordinance ~~on the Agency’s website~~. If the Bird and Bat Study for a proposed ministerial Small WECS project finds that there is a potential for impacts to any listed State or Federal threatened or endangered species or California Department of Fish and Game designated bird or bat ‘species of special concern’ or ‘Fully Protected species’ found to nest or roost in the area of the proposed WECS site, the project will become discretionary and require a Resource Management and Contingency Plan as described in Section 22.32.190.G.9.b.

- b. Small WECS and Medium WECS (coastal) projects, with the exception of Small Roof-Mounted WECS, shall require the Bird and Bat Study to include a Resource Management and Contingency Plan to: (1) provide for pre-approval and post-construction monitoring and reporting; and (2) provide mitigation to reduce bird and bat mortality rates, if necessary.

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

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

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

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

2. WECS Decommissioning and Reclamation Plan and Agreement. Before issuance of building permit approval, the owner/operator of any discretionary WECS shall enter into a WECS Decommissioning and Reclamation Plan (Plan) and Agreement with the County, outlining the anticipated means and cost of removing the WECS at the end of its serviceable life or upon becoming a discontinued use if it remains inoperable for a period of more than one year. The

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

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

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

A RESOLUTION RECOMMENDING THAT
THE MARIN COUNTY BOARD OF SUPERVISORS
ADOPT THE MARIN COUNTY LOCAL COASTAL PROGRAM AMENDMENT (LCPA)

- I. WHEREAS, Section 30500 of the Public Resources Code requires each County and City to prepare a Local Coastal Program (LCP) for that portion of the coastal zone within its jurisdiction.
- II. WHEREAS, the California Coastal Commission effectively certified Unit I of the Marin County Local Coastal Program on June 3, 1981, and Unit II on April 7, 1982. The total LCP was certified on May 5, 1982, and the County assumed permit-issuing authority on May 13, 1982.
- III. WHEREAS, in October 2008 the Board of Supervisors approved a work program and schedule to prepare amendments to the Marin County Local Coastal Program (LCP). The LCP is a planning document that identifies the location, type, densities and other ground rules for future development in the coastal zone. The LCP is comprised of the Land Use Plan (LUP), the Implementation Program (IP), and all accompanying land use and zoning maps. The purpose of the LCP Amendments (LCPA) is to address issues that have arisen since the LCP was originally certified and to provide for more efficient and effective management of coastal resources.
- IV. WHEREAS, the update process included extensive input from the public. There have been over 50 meetings and hearings open to the public regarding the LCPA. Comments and participation were sought from County residents, California Native American Indian tribes, public agencies, public utility companies, and various local community groups and organizations. The LCPA was referred to the California Coastal Commission, National Park Service, California State Department of Fish and Game, public water agencies, the Federated Indians of Graton Rancheria, and a number of other public agencies.
- V. WHEREAS, beginning on March 16, 2009, the Marin County Planning Commission conducted the first of a series of 19 public issue workshops to obtain the public's input on issues of concern in the development of the LCPA. Input was obtained through public meetings on April 27, May 26, June 22, July 13, July 27, August 24, September 28, October 26, and November 23, 2009, and January 25, February 8, March 8, April 12, April 26, June 14, June 28 and July 29, 2010 and through correspondence and consultations through that period. Written correspondence was placed on the LCPA website and made available to all.

- VI. WHEREAS, a preliminary Public Review Draft of the LCPA was released on June 2011, which was followed by four community workshops that were held on July 12, 18, 20 and 25 to present the Public Review Draft to the public.
- VII. In conjunction with the release of the Public Review Draft for the LCPA Amendment, the Board of Supervisors and Planning Commission met on June 28, 2011, and adopted a schedule for public hearings to obtain public comment on the LCPA.
- VIII. WHEREAS, beginning on August 31, 2011, a series of public hearings were held by the Planning Commission to receive testimony on the LCPA and to provide the public and affected agencies and districts with the maximum opportunity to participate in the LCP Amendment process, consistent with California Code of Regulations Sec. 13515 and Public Resources Code Sec. 30503. Public hearings were held on September 19, October 10 and 24, November 7, and December 1, 2011, and January 9 and 23, 2012. Oral and written comments were presented and considered at the hearings.
- IX. WHEREAS, following the close of the November 7, 2011, public hearing, the Commission directed that the June 2011 Public Review Draft be revised to reflect the initial recommendations of the Commission at that time. These revisions were presented in the January 2012 Public Review Draft, which was made available for the January 9 and 23, 2012 public hearings..
- X. WHEREAS, at the close of the January 23, 2012 public hearing, the Planning Commission directed staff to compile all the changes made by the Commission in a new, complete document entitled the "Planning Commission Recommended Draft."
- XI. WHEREAS, prior to the February 13, 2012 hearing, the Commission was provided with the complete contents of the Local Coastal Program consisting of the following documents: (1) Marin County Planning Commission-Recommended Local Coastal Program Draft LUP Amendments (February, 2012); and (2) Marin County Planning Commission- Recommended Proposed Development Code Amendments (February 2012). Land Use and Zoning Maps; and Appendices had been previously distributed in June 2012. Both Planning Commission Recommended Amendment documents were also mailed to interested parties who had requested them. All documents were additionally made available to the public on the LCPA website.
- XII. WHEREAS, the existing policies in Land Use Plan Units I and II have been combined into one Land Use Plan representing the entire coastal zone. The LUP has also been reorganized into three major sections: Natural Systems and Agriculture, Built Environment, and Socioeconomic. The Natural Systems and Agriculture section contains the policy chapters of Agriculture; Biological Resources; Environmental Hazards; Mariculture; and Water Resources. The Built Environment section contains the policy chapters of Community Design; Community Development; Community-Specific Policies; Energy; Housing; Public

Facilities and Services; and Transportation. Finally, the Socioeconomic section contains the policy chapters of Historical and Archaeological Resources; Parks, Recreation, and Visitor-Serving Uses; and Public Coastal Access.

- XIII. WHEREAS, the Implementation Program code provisions and zoning maps carry out the policies and programs in the LUP by indicating which land uses are appropriate in each part of the Coastal Zone. The IP also contains specific requirements that apply to development projects and detailed procedures for applicants to follow in order to obtain a coastal permit.
- XIV. WHEREAS, pursuant to Sections 15250 and 15251(f) of the California Environmental Quality Act (CEQA) Guidelines, the preparation, approval, and certification of a Local Coastal Program Amendment is exempt from the requirement for preparation of an Environmental Impact Report (EIR) because the California Coastal Commission's review and approval process has been certified by the Secretary of Resources as being the functional equivalent of the EIR process required by CEQA in Sections 21080.5 and 21080.9 of the Public Resources Code.
- XV. WHEREAS, on February 13, 2012, the Marin County Planning Commission conducted a public hearing to consider a recommendation to the Board of Supervisors to adopt the Feb. 2012 Planning Commission-Recommended Draft of the LCPA.
- XVI. WHEREAS, the Marin County Planning Commission intends that the LCP shall be carried out in a manner fully in conformity with the Coastal Act consistent with Public Resources Code Section 30510.
- XVII. WHEREAS, the Marin County Planning Commission has reviewed and considered the information in the Marin County Local Coastal Program Amendment administrative record and staff reports for consistency with the California Coastal Act.

NOW, THEREFORE, BE IT RESOLVED, that the Marin County Planning Commission makes the following findings:

1. The recitals above are true and accurate and reflect the independent judgment of the Planning Commission.
2. Notices of the Planning Commission hearings on the Local Coastal Program Amendments were given as required by law, and the actions were conducted pursuant to the Planning and Zoning Law, and California Code of Regulations Sec. 13515.
3. All individuals, groups, and agencies desiring to comment were given adequate opportunity to submit oral and written comments on the Local Coastal Program Update. These opportunities for comment meet or exceed the requirements of the Planning and Zoning law and California Code of Regulations Sec. 13515.4.

4. All comments submitted during the public hearings on the Local Coastal Program Amendments were provided to and considered by the Planning Commission.
5. The Planning Commission was presented with all of the information described in the recitals and has considered this information in adopting this resolution; and
6. The Local Coastal Program Amendment has been completed in compliance with the intent and requirements of California Coastal Act, and reflects the independent judgment of the County of Marin. The Planning Commission has considered the information contained in the Local Coastal Program Update in making its recommendation to the Board of Supervisors.
7. The Local Coastal Program Amendment is intended to be carried out in a manner fully in conformity with the policies and requirements of the California Coastal Act.
8. The Local Coastal Program Amendment approved in this resolution shall become effective only after approval by the Marin County Board of Supervisors and certification by the California Coastal Commission.

NOW, THEN, LET IT BE FURTHER RESOLVED that the Marin County Planning Commission recommends that the Marin County Board of Supervisors adopt the Marin County Local Coastal Program Amendment as meeting the requirements of and conforms with the policies of Chapter 3 of the California Coastal Act.

NOW, THEN, LET IT BE FURTHER RESOLVED that the Marin County Planning Commission finds that adoption of the February 2012 Local Coastal Program Amendment as the 2012 Marin County Local Coastal Program is in the public interest and is necessary for the public health, safety, and welfare of Marin County and recommends that the Marin County Board of Supervisors adopt the February 2012 Marin County Local Coastal Program Amendment as the 2012 Marin County Local Coastal Program.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 13th day of February, 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

PETER THERAN, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Debra Stratton
Recording Secretary