

Attachment 1, Marin County Revised LCP Amendments, December, 2018

RESOLUTION NO. _____

**RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
SUBMITTING REVISED AMENDMENTS NOS. 3 AND 7 TO THE MARIN COUNTY
LOCAL COASTAL PROGRAM**

SECTION 1: FINDINGS

The Marin County Board of Supervisors hereby finds and declares the following:

1. **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.
2. **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.
3. **WHEREAS**, in October 2008 the Board of Supervisors approved a work program and schedule to prepare amendments to the Marin County 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 Plan (IP), and all accompanying land use and zoning maps. The purpose of the LCP Amendments (LCP Amendments) 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.
4. **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.
5. **WHEREAS**, the Implementation Plan (IP) 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.

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6. **WHEREAS**, the County process for development, review, and consideration of the LCP Amendments has included extensive input from the public at all stages. There have been over 60 meetings and hearings open to the public regarding the current LCP Amendments. 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 LCP Amendments were specifically referred to the California Coastal Commission, National Park Service, California State Department of Fish and Wildlife (formerly Department of Fish and Game), public water agencies, the Federated Indians of Graton Rancheria, and a number of other public agencies.
7. **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 LCP Amendments. 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 LCP Amendments website and made available to all.
8. **WHEREAS**, a preliminary Public Review Draft of the LCP Amendments was released on June 2011, which was followed by four community workshops that were held on July 12, 18, 20 and 25, 2011 to present the Public Review Draft to the public. In conjunction with the release of the Public Review Draft for the LCP Amendments, the Board of Supervisors and Planning Commission met on June 28, 2011, and adopted a schedule of public hearings to obtain public comment on the LCP Amendments.
9. **WHEREAS**, beginning on August 31, 2011, a series of public hearings was held by the Planning Commission to receive testimony on the LCP Amendments and to provide the public and affected agencies and districts with the maximum opportunity to participate in the LCP Amendments process, consistent with California Code of Regulations, Title 14, 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.
10. **WHEREAS**, following the close of the November 7, 2011, public hearing, the Planning Commission directed that the June 2011 Public Review Draft be revised to reflect the initial recommendations of the Planning 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.
11. **WHEREAS**, at the close of the January 23, 2012 public hearing, the Planning Commission directed staff to compile all the changes made by the Planning

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Commission in a new, complete document entitled the "Planning Commission Recommended Draft."

12. **WHEREAS**, prior to the February 13, 2012 hearing, the Planning 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 Amendments documents were also mailed to interested parties who had requested them. All documents were additionally made available to the public on the LCPA website at www.MarinLCP.org.
13. **WHEREAS**, on February 13, 2012, the Marin County Planning Commission approved the LCP Amendments and directed staff to incorporate all changes into the "Planning Commission Approved Draft, Recommended to the Board of Supervisors," dated February 13, 2012. This draft document was mailed to interested parties, made available in all Marin County libraries, posted on the MarinLCP.org website, and placed for review by the public at the Marin County Community Development Agency front reception desk.
14. **WHEREAS**, beginning on October 2, 2012, a series of public hearings was held by the Board of Supervisors to receive testimony on the LCP Amendments and to provide the public and affected agencies and districts with the maximum opportunity to participate in the update to the LCP Amendments, consistent with California Code of Regulations Title 14, Sec. 13515 and Public Resources Code Sec. 30503. Public hearings were held on November 13 and December 11, 2012, and January 14, February 26, April 16, and July 30, 2013. Oral and written comments were presented and considered at the hearings.
15. **WHEREAS**, the Marin County Board of Supervisors conducted a public hearing on July 30, 2013 and approved submitting the proposed LCP Amendments to the Marin County Local Coastal Program to the California Coastal Commission.
16. **WHEREAS**, on September 20, 2013 the LCP Amendments were submitted to the Coastal Commission staff for informal review and advice as to the completeness of the document under Commission regulations prior to official submittal.
17. **WHEREAS**, after providing further clarification at the request of Coastal Commission staff, the LCPA was officially submitted to the Commission on November 7, 2013.
18. **WHEREAS**, after a lengthy process of providing additional material at the request of the Coastal Commission staff, the Commission staff deemed the LCPA submittal complete on April 28, 2014.

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19. **WHEREAS**, throughout the period from September 2013 through May 2014, County staff worked closely with Coastal Commission staff to resolve differences between the LUP policies approved by the Marin County Board of Supervisors and more than 600 “Suggested Modifications” proposed by Commission staff. County staff engaged in numerous conversations with Coastal Commission staff and exchanged documents in an effort to reach agreement while still preserving the County’s local land use and zoning control as allowed by the Coastal Act and approved by the Board of Supervisors.
20. **WHEREAS**, in consideration of time constraints and the volume of material involved, Coastal Commission staff subsequently recommended, and the County agreed, to delay action on the Implementing Plan Amendments (IPA) and act upon the LUPA separately. After a public hearing the Coastal Commission approved the LUPA with Suggested Modifications on May 15, 2014.
21. **WHEREAS**, after continuing discussions with County staff, in November 2014 the Coastal Commission staff the released a draft set of Suggested Modifications to the IPA containing hundreds of proposed changes from the version adopted by the Marin County Board of Supervisors. This prompted extensive discussions between the County and Coastal Commission staffs and interested members of the public. The Coastal Commission staff set out Suggested Modifications revising the draft released in November 2014 in a staff report dated April 2, 2015, supplemented by an addendum staff report dated April 15, 2015. On April 16, 2015, the Coastal Commission conducted a hearing and took testimony on the Suggested Modifications proposed by the Commission staff to the IPA. Due to the complexity of the issues raised by the modifications and the limited time available to craft solutions, County Staff withdrew the IPA from consideration by the Commission.
22. **WHEREAS**, the County has reviewed the Suggested Modifications to the Land Use Plan adopted by the Coastal Commission, as well as the proposed modifications to the Implementation Plan contained in the Coastal Commission staff report which was published but not acted upon by the Commission itself; has conducted additional public discussions and a public hearing on potential Amendments to the Local Coastal Program; and has developed a Resubmittal consisting of Amendments to portions of the County’s Land Use Plan and Implementation Plan that incorporate the vast majority of the suggestions provided by the Coastal Commission.
23. **WHEREAS**, the County has engaged in a vigorous process of public involvement in developing the Amendments to the Environmental Hazards Land Use Plan Chapter and IPA and related IPA elements addressing the permit approval process, including: holding multiple public workshops and numerous community group meetings including those hosted by local groups such as the East Shore Planning Group, Stinson Beach Village Association, Muir Beach Community Service District, and Point Reyes Village Association; engaging with the C-SMART Technical Advisory Committee and Stakeholder Advisory Committee; and involving local citizens in the Game of Floods participatory planning simulation.

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24. **WHEREAS**, the dissemination and discussion of all relevant documents, including the comprehensive but independent C-SMART Vulnerability Assessment and the potential sea level rise adaptation measures outlined in the West Marin Adaptation Poll, produced active public input which brought to light opinions about reducing timeframes for hazards analysis, protecting natural resources and public access, and enabling residents to safely maintain or elevate their homes from coastal hazards which will be exacerbated by sea level rise.
25. **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.
26. **WHEREAS**, the Marin County Board of Supervisors 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.
27. **WHEREAS**, the Marin County Board of Supervisors has reviewed and considered the information in the Marin County LCP Amendments administrative record and staff reports for consistency with the California Coastal Act.
28. **WHEREAS**, the Marin County Board of Supervisors on September 30, 2015 timely filed the following Amendment Nos. 1 through 3 to the certified Marin County Local Coastal Program, as listed below, for approval by the California Coastal Commission. Each of these separate and distinct Amendments dealt with a different subject matter, implicated different local concerns, issues, and land use matters, and was intended to be processed as a separate and independent amendment to the LUP and IP, notwithstanding any submittal of any other amendment.

Amendment 1: The following Chapters of the LUPA:

Introduction	Housing (HS)
Interpretation of the Land Use Plan	Public Facilities & Services (PFS)
Biological Resources (BIO)	Transportation (TR)
Mariculture (MAR)	Historical & Archaeological Resources (HAR)
Water Resources (WR)	Parks, Recreation & Visitor-Serving Uses (PK)

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Community Design (DES)	Public Coastal Access (PA)
Community Development (CD)	Local Coastal Program Maps
Energy (EN)	

Amendment 2: The Agriculture Chapter of the LUPA.

Amendment 3: Chapters and Sections of the Marin County Development Code comprising a portion of the IPA for the LUPA Agriculture Chapter as Specified in Attachment 3.

29. **WHEREAS**, pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations, the County Resolution for resubmittal may specify that a Local Coastal Program Amendment will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519; and that the County will exercise its authority to determine that the Resubmitted Amendments shall not become effective unless and until the Board of Supervisors takes further action to place them in effect.

30. **WHEREAS**, on April 22, 2015 the Marin County Board of Supervisors filed the following Amendment Nos. 4 through 7 to the certified Marin County Local Coastal Program, as listed below, for approval by the California Coastal Commission. Each of these separate and distinct Amendments dealt with a different subject matter, implicated different local concerns, issues, and land use matters, and was intended to be processed as a separate and independent amendment to the LUP and IP, notwithstanding any submittal of any other amendment.

Amendment 4: The Environmental Hazards (EH) Chapter of the Land Use Plan Amendment (LUPA):

Amendment 5: Specified Chapters and Sections of the Marin County Development Code comprising a portion of the Implementation Plan Amendment (IPA) for the LUPA Environmental Hazards Chapter.

Amendment 6: Coastal Permitting and Administration sections of the IPA Code (Chapters 22.68 and 22.70)

Amendment 7: All remaining Chapters and Sections of the Marin County Development Code comprising the IPA for the LUPA

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- 31. WHEREAS**, the County provided extensive additional material at the request of Coastal Commission staff in order for Coastal Commission staff to deem the submittal of all of the separate LCP Amendments complete for filing.
- 32. WHEREAS**, Coastal Commission staff prepared a staff recommendation on the County's submittal dated October 21, 2016, with an Addendum dated November 1, 2016, and the Commission thereafter held a public hearing on the matter on November 2, 2016, where substantial public testimony was taken, including that of the Marin County Community Development Agency representing the Board of Supervisors.
- 33. WHEREAS**, the Coastal Commission declined to follow its staff's recommendation in some respects, instead splitting the Amendments into two separate actions and removing Amendments #4 and #5 from further action at that time. The Commission subsequently made additional changes pertaining to the definition of "Agriculture, Ongoing," and then approved the remaining amendments with Suggested Modifications.
- 34. WHEREAS**, the County received a letter sent by Coastal Commission staff dated November 9, 2016 stating that the Coastal Commission approved the proposed LCP Amendments if modified as suggested, and attached the Suggested Modifications approved by the Coastal Commission.
- 35. WHEREAS**, on June 23, 2017 the Coastal Commission issued Draft Revised Findings for changes the Commission's made on November 2, 2016 to its staff recommendation, and subsequently Marin County staff and others raised objections to those Revised Findings by letter and through staff testimony at the Revised Findings hearing on July 14, 2017.
- 36. WHEREAS**, on March 20, 2018, the Marin County Board of Supervisors held a public workshop, and on April 24, 2018 held a duly noticed public hearing on the proposed LCP Amendments #1, #2, #3, #6 and #7 as modified by the California Coastal Commission. After concluding the public hearing and discussing each of the separate Amendments, the Board voted to accept Amendments #1, #2 and #6 as modified by the Coastal Commission, and to not accept Amendments #3 and #7, and to transmit that action to the Coastal Commission.
- 37. WHEREAS**, on June 6, 2018 the Coastal Commission voted to concur in the Commission Executive Director's determination that the action of Marin County accepting the Commission's certification of portions of Local Coastal Program Amendment Number LCP-2-MAR-15-0029-1 made up of Amendments #1, #2, and #6 is legally adequate, thereby completing certification action on those Amendments.

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- 37 WHEREAS**, on October 11, 2018 the Marin County Planning Commission conducted a public hearing on Amendments #3 and #7 that were not accepted by the Board as modified by the Coastal Commission, and on staff recommended revisions to those Amendments. After a staff presentation, public comment, and discussion among Commissioners, the Planning Commission provided comments on unanimously recommended the revised Local Coastal Program Amendments to the Board of Supervisors, with the suggestion that the Board clarify the definition of “ongoing agriculture” by stating that the CDA Director would use “reasonable discretion” when determining whether an agricultural activity would have significant impacts to coastal resources. The motion also included the Commission’s strong support of the original intention of the Coastal Act to preserve agriculture and the character of existing coastal communities in addition to protecting coastal resources.

SECTION 2: AMENDMENTS TO THE MARIN COUNTY LOCAL COASTAL PROGRAM

NOW, THEREFORE, BE IT RESOLVED, that the Marin County Board of Supervisors makes the following findings:

1. The recitals above are true and accurate and reflect the independent judgment of the Board of Supervisors.
2. Notices of the Board of Supervisors hearing on the revised LCP Amendment #3 and Amendment #7 were given as required by law, and the hearings were conducted pursuant to the Planning and Zoning Law and California Code of Regulations, Title 14, Sec. 13515.
3. All individuals, groups, and agencies desiring to comment were given adequate opportunity to submit oral and written comments on the LCP Amendments. These opportunities for comment meet or exceed the requirements of the Planning and Zoning law and California Code of Regulations, Title 14, Sec. 13515.4.
4. All comments submitted during the public hearings on the LCP Amendments were provided to and considered by the Planning Commission and Board of Supervisors.
5. The Board of Supervisors was presented with all of the information described in the recitals and has considered this information in adopting this Resolution.
6. The LCP Amendments have been completed in compliance with the intent and requirements of California Coastal Act, and reflect the independent judgment of the County of Marin.
7. That these separate and distinct Amendments deal with different subject matter, implicate different local concerns, issues, and land use matters, and is intended to

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be processed as a separate and independent amendment to the LUP and IP, notwithstanding any submittal of any other amendment.

8. The Marin County Board of Supervisors certifies that the LCP Amendments are intended to be carried out in a manner fully in conformity with the policies and requirements of the California Coastal Act, and that they contain, in accordance with guidelines established by the California Coastal Commission, materials sufficient for a thorough and complete review.

NOW, THEN, LET IT BE FURTHER RESOLVED that the Marin County Board of Supervisors action on the subject Amendments is intended to carry out the following provisions of the Public Resources Code:

1. Section 30004(a): the Legislature further finds and declares that (a) to achieve maximum responsiveness to local conditions, accountability, and public accessibility, it is necessary to rely heavily on local government and local land use planning procedures and enforcement; and
2. Section 30500(c): The precise content of each local coastal program shall be determined by the local government, consistent with Section 30501, in full consultation with the Commission and with full public participation; and
3. Section 30512.1(a): The Commission's review of a land use plan shall be limited to its administrative determination that the land use plan submitted by the local government does, or does not, conform with the requirements of Chapter 3 (commencing with Section 30200). In making this review, the Commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan; and
4. Section 30512.2(c): The Commission shall require conformance with the policies and requirements of Chapter 3 (commencing with Section 30200) only to the extent necessary to achieve the basic state goals specified in Section 30001.5.

NOW, THEN, LET IT BE FURTHER RESOLVED that the Marin County Board of Supervisors hereby submits revised Amendment # 3 and #7 to the certified Local Coastal Program based upon the reasons set forth in the Board Letter of December 4, 2018 and its Attachments, which are hereby incorporated as though set forth in full herein.

SECTION III: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 4th day of December, 2018, by the following vote:

AYES:

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NOES:

ABSENT:

ATTEST:

Damon Connolly, President

Marin County Board of Supervisors

Clerk of the Board of Supervisors