

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV

**March 23, 2016**

Brian Crawford, Director
Marin County Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Subject: ***Revised Marin County Local Coastal Program Update***

Dear Mr. Crawford:

As you know, the Coastal Commission approved an updated Marin County Local Coastal Program (LCP) Land Use Plan (LUP) in May 2014, and the Commission was considering approval of an updated LCP Implementation Plan (IP), which would have constituted approval of a complete LCP update, at a hearing in April 2015 when the County withdrew its proposed IP update. In the time since that April 2015 hearing, the County has decided to take a step back and to make new changes to both the LUP and the IP, and to resubmit a new LCP update package to the Commission for consideration following County Board of Supervisor hearings. While we would have strongly preferred that the LCP update be approved at that April 2015 hearing as we recommended, we have been and will continue to work with you and your staff as you develop these new LCP update documents, including those being forwarded to the Board for consideration in April. We provide this comment letter today in an effort to continue to assist the County in their current revised LCP update efforts.

Because there have been many versions of many different documents out for review at various times, we first want to note to what documents we refer in this letter. On February 16, 2016, we received from County staff their revised draft of the County's proposed LUP and IP updates, excluding the portions relating to environmental hazards and a completed definitions chapter. On February 17, 2016, we received from County staff their draft Environmental Hazards LUP chapter and related Environmental Hazards IP sections. On March 14, 2016, we received from County staff their proposed draft IP Definitions chapter (Chapter 22.130). Thus, when all of these documents are put together, we have what we believe to be your staff's proposed draft LUP update (LUPU) and proposed draft IP update (IPU).

On a bookkeeping note, and as befits a process with many moving pieces and drafts floating about, I would first note for the record that the County's proposed revised LCP update has not been deemed submitted (or "filed") at the Coastal Commission level. In fact, unlike the revised LUPU transmitted to the Commission and the portions of the IPU relating to agriculture transmitted to the Commission on October 8, 2015, the above-referenced drafts transmitted by County staff have not yet been acted on by the Board of Supervisors. Though those portions of the proposed revised LUPU and the portions of the IPU relating to agriculture were acted on by the Board in 2015, as indicated in our letter of December 16, 2015, neither the revised LUPU nor the revised IPU relating to agriculture have been deemed submitted, in part because of the

interrelationship between the provisions of the overall LCP update at differing stages of completion. It is our understanding that the County intends to move forward on all of the above-referenced documents and pieces as an integrated revised LCP update submittal rather than proceeding on specified parts in advance of others in a piecemeal fashion, and will be submitting to the Commission a complete revised LUPU and IPU package following Board consideration and action.

Specifically, it is our understanding that County staff plans to present its recommendations regarding the IPU, as well as the revised proposed Environmental Hazards LUP chapter and IP sections, to the Board at its April 19th meeting. On March 8th, 9th, and 15th, Commission staff met with County staff to discuss the above listed draft documents in an effort to resolve potential issues prior to an April 19th Board of Supervisors hearing. We appreciate the County staff's interest in incorporating into their draft any agreed upon modifications. For clarity, we have also provided a list of our comments to date, which we have expressed in our March meetings as well as previously. As also expressed in these meetings, please note that these comments provided are not meant to be comprehensive. This is in part due to the very condensed and limited timeframe for our review. We have done what we can in light of that constraint, but note that we may have additional comments as your process proceeds, particularly in terms of Environmental Hazards as that component of the update is probably the least developed and vetted at the current time. Where known, we have included proposed changes to the County's draft documents, including those portions previously acted upon by the Board, both to convey our belief in the need for revisions at the earliest opportunity and to inform your drafting of the remainder of the update, including importantly with respect to the IPU, given that the IP language must emanate from the LUP. We also recognize that we are not reviewing final drafts of these documents, especially revised proposed portions of the IP and the Environmental Hazards LUP Chapter and IP Sections, which are still being redrafted by County staff in response to recent discussions at our staff to staff meetings in March and with stakeholder groups. Finally, with regard to the draft IPU, please note that we have focused our review on the most recent changes based on our collective hope that the version of the IPU being used as the base document is the version that went forward to the Coastal Commission at the April 2015 hearing with the modifications suggested by Commission staff.

The following is organized in terms of comments on the revised draft LUPU and IPU documents, and also some even more specific comments in relation to the Environmental Hazard components of both. There is obviously some overlap, and please construe the comments in that way. And, as indicated above, we are providing these to you in this form and at this time to try to help the County as it prepares for the April 19 Board hearings on this matter. These comments must be understood as preliminary, and we respectfully reserve the right to provide additional comments in the future. Please consider the following:

1. LUP

- Amendment History: Remove the amendment history from the LUP text. If the County chooses to maintain the history, make the references consistent throughout the document and expressly state that the amendment history will be not used to interpret certified LCP provisions. See pages 7-8 of our August 21, 2015 comment letter for more information.
- C-AG-2:
 - Revise C-AG-2 and corresponding IP provisions relating to accessory structures so they conform to the Board’s originally adopted language that “accessory structures be appurtenant and necessary to the operation of agriculture.”
 - Add definition of farm tract in (A)(4)(a).
 - Clarify in Part (B) (and/or in the IP) that if owner/operator or third parties, including non-profits, do not charge a fee for tours or charge a fee that is not for profit, then the use is a principal permitted use; if owner/operator or third parties charge a fee for profit, then the use is permitted.
- C-AG-5:
 - Add definition of farm tract to Part (A).
 - Restore the following sentence in Part (A), “The reviewing authority shall consider all contiguous properties under the same ownership to achieve the requirements of the LCP.” This statement is mandatory in contrast to the statement in the last sentence of C-AG-2 which is permissive.
- C-AG-7:
 - Delete the characterization of non-prime land as "other land suitable for agriculture" in Part (A)(1) since the Coastal Act reference to "other land suitable for agriculture" in Section 30242 instead refers to land not on the urban rural boundary.
 - Delete reference to siting "agricultural homestay" and "bed and breakfast facilities" in a clustered development area in Part (A)(4) because per C-AG-9(F), such facilities are only allowed in otherwise allowable agricultural dwelling units and by definition LCP provisions only apply prospectively to new development. Also, delete same references in 22.65.040(C)(1)(d).
 - Delete the word "only upon" from the following sentence to eliminate exclusivity and reflect inclusion in Part (B) because density is determined by development limitations other than AG-6 and AG-7(B): “The County shall determine the density of permitted agricultural dwelling units or land divisions ~~only upon~~ including by applying....”
- C-AG-8: Revise reference from (3) to (C) in Part (A).
- C-AG-9: Change reference from "legal lot" to "farm tract" in Part (C).

- C-BIO-9: Restore reference to C-EH.
- C-BIO-TBD: Renumber.
- C-BIO-14: Consider deletion of reference to "ongoing agricultural activities" since by definition, the LCP only applies prospectively to new development.
- C-EH: See below.
- C-CD-15: At the beginning of the first sentence, add "Consistent with the limitations to the village core commercial area outlined in PK-3...". Edit or add maps to reflect the village core commercial area described in PK-3.
- C-PFS-4: Restore deleted sentence in this Policy or create a new policy with this language in it because the Coastal Act requires new development to be served by adequate public services, including water, sewer, and traffic (Coastal Act Section 30250). In areas with limited public services, Coastal Act Section 30254 explicitly requires that service capacity be reserved for certain priority land uses, including agriculture, public recreation, and visitor-serving uses.
- C-PA-3: Restore previous language, or modify C-PA-2 and C-PA-3 to better emulate Coastal Act access policy structure, both in terms of Coastal Act Section 30212 and remaining access Sections.

2. IP.

- Working days: Restore all references to working days.
- Appendices: Add an appendix which includes all adopted Categorical Exclusion Orders, and any relevant local zoning ordinances in effect at the time each Categorical Exclusion Order was adopted, to the LUP or IP, and reference them as part of the LCP's LUP or IP Section 22.60.010.
- References to Article VIII: Add all cross-referenced definitions to 22.130.
- Second units: IP provisions for second units relating to density bonuses need to conform to the LUP, such as C-HS-9.
- 22.32.022: Retain reference to "agricultural production" per AG-2.
- 22.32.023: Delete the addition of "new" in (D) because agricultural homestays are permitted only within otherwise permissible dwellings and cannot be new stand-alone structures.
- 22.32.024: Add "and agricultural dwelling units" after intergenerational homes.
 - Per C-AG-5, add the phrase to Part (B), "including existing homes" to maximum agricultural dwelling unit limitations so it is clear "no more than 1 farmhouse and 2 intergenerational homes are allowable per farm tract, including existing homes."

- Edit “farm” to “farm tract” in Part (D).
- Edit “parcel” to “legal lot” in Part (F).
- Remove the addition of “without being authorized in a LCP amendment” in Part (I)(5).
- 22.32.025: Delete the addition of "considered" from the last sentence of the first paragraph in the farmhouse provisions so that all farmhouses are not de facto considered "necessary for agricultural production."
- 22.32.026: Consistent with C-AG-2, add to PPU requirements in Part (A) that processing facilities shall be "appurtenant and necessary to operation of agriculture."
- 22.32.027: Consistent with C-AG-2, add to PPU requirements in Part (A) that retail facilities shall be "appurtenant and necessary to operation of agriculture."
- 22.32.028: Delete the addition in Part (B)(1) and replace with “which exceeds 36 beds or 12 units.”
- 22.32.050: Restore “or where there would be significant impacts to coastal resources, including public views.”
- 22.32.062: Clarify as described above under LUP C-AG-2.
- 22.32.130: Retain deleted sentence because otherwise there are no structural standards for the agricultural dwelling units. Or, alternatively, reiterate the construction standards in Sections 22.32.024 and 22.32.025.
- 22.32.140: Delete non-residential agricultural districts from list of zoning districts allowing second units in Part (B) since second units are not allowed in non-residential agricultural districts.
- 22.32.150: Delete edits in Part (A), if intent is mixed use and preference is commercial.
- 22.60: Given that some Chapters and Articles are part of the LCP while others are not, all cross references need to acknowledge that while consistency with all may be required for the particular permits specified, only the specified Chapters and Articles that are part of the LCP must control CDP approvals within the coastal zone. For example, County Chapter 22.66 should be revised consistent with Chapter 22.60 which addresses the relationship between the LCP and Non-LCP portions of the development code.
- 22.62.040:
 - Restore deleted text in Part (B)(2).
 - Delete edit to (B)(5) because a use cannot be authorized if it is not allowed in a zoning district.
- 22.62.050: Regarding Tables 5-1-a through 5-1-e and standards for Principally Permitted Uses, please see page 16 of our August 21, 2015 comment letter. Any modifications to these

tables need to clarify the development standards and definitions that should be applied to determine when a use is permitted and when it is principally permitted. Further, the footnotes providing exceptions for height and setbacks, highlight the importance of retaining references to specific LUP policies. Footnotes regarding land divisions must clarify that land divisions are never a principally permitted use in any zoning district and only allow for the creation of lots that can be developed consistent with LCP policies, including the potential for increased coastal resource impacts. Please also confine development requiring a variance to permitted and conditionally permitted uses. The County indicated in recent meetings that it had a different proposed method to achieve the same results, but we have not yet seen what it is. There are many ways to achieve the same result, and we are open to other methods that can achieve the same objectives (note for example, the text of proposed IP Section 22.32.027 that could provide a model for same). Also, delete all of the added provisions allowing Planning Director flexibility/deviations footnoted in Table 5-1.

- 22.62.060: Conform to above comments regarding for profit versus not for profit in Part (B)(d)(2).
- 22.64.045:
 - Restore deleted text from Parts (2)(A)(1) and (2)(B) in order to be consistent with C-DES-2.
 - Restore deleted text from Part (3).
 - Restore deleted text from Part (4)(A).
- 22.64.050:
 - Delete the term “significant” from the added sentence in Part (A)(1)(b).
 - Edit Part (A)(1)(c)(10) to “A buffer reduction shall be considered when supported by evidence that the reduction is necessary, is the absolute minimum necessary, and will prevent impacts that degrade ESHA and will be compatible with the continuance of ESHA.”
 - Delete the term “significant” from Part (A)(1)(d).
- 22.64.060: See below.
- 22.64.080:
 - Modify language in (A)(1) to achieve consistency with State law.
 - Modify language in (A)(5) to be more liberally construed, i.e. why limit requirements of a geotechnical report to DPW’s determination, review and approval?
- 22.64.110:
 - Restore deleted text in Part (A)(2).

- Add the qualifier language from C-CD-15 to (A)(11).
- 22.64.140: Retain all deleted language. If the County would like to recommend different procedures for ensuring that water wells do not impact surrounding priority land uses, Commission staff is willing to discuss different options further.
- 22.64.150: Restore deleted text in Part (A)(6).
- 22.65.030: Delete all of the added provisions allowing Planning Director flexibility/deviations from otherwise applicable development limitations in Part (C)(1)(d), as well as similar deviations in 22.02.020(E).
- 22.65.040:
 - Restore reference to “agricultural production” in Part (A), so subsection reads consistent with C-AG-2 which requires that development is "accessory and incidental to, in support of, and compatible with agricultural production," not agricultural use. Similarly, restore "agricultural production" in 22.65.040(C)(1)(a).
 - Delete reference in Part (C)(1)(d) to siting "agricultural homestay" and "bed and breakfast facilities" in a clustered development area because per C-AG-9(F), such facilities are only allowed in otherwise allowable agricultural dwelling units and by definition LCP provisions only apply prospectively to new development.
 - Restore Parts (C)(3)(c)(4)-(7)'s limitations on land divisions in agricultural districts, for consistency with Coastal Act Section 30250 and parallel LUP limitations on land divisions in rural areas contained in C-CD-3.
 - Restore County deletion of "maintain and enhance" standard in Part (C)(4)(1) per both C-AG-7(B)(1) and C-AG-7(A).
- 22.66.010: Replace “that differ from” with “in addition to.”
- 22.66.020: Delete last sentence added, allowing the community standards of the LCP to override other provisions of LCP.
- 22.68.040:
 - Restore reference to Appendix in Part (A).
 - Delete the last sentence of (A) starting with, “Categorical Exclusions Order E-81-2...” The Appendix must include all adopted Categorical Exclusion Orders, and any relevant local zoning ordinances in effect at the time each Categorical Exclusion Order was adopted.
 - Restore “the reasons supporting the categorical exclusion determination (including evidentiary information and other materials (i.e., location, maps, site plans, etc.)” in Part (B).

- 22.68.050
 - We look forward to discussing the need for appropriate noticing, including the relationship to said notice and to any deadlines that are derived from the notice date. As we have discussed, the two are related, including the degree of notice provided and the length of time allowed for a challenge. We believe that more discussion on these points in relation to coastal permit procedures is necessary.
 - Following the example provided from San Mateo County, on the County’s Coastal Permit Exclusion form, add additional lines for the project description and add a checkbox for permit exemptions.
 - Restore the previously agreed upon language regarding noticing requirements for exemptions given that Commission review of exemptions determinations is expressly authorized by Section 30625 of the Coastal Act, and by Section 13569 of our regulations as it relates to the fundamental question of whether development is appealable or not, and by extension requires one of those types of permits or not.
 - Restore “natural” in Part (C).
 - Delete “significant” from Part (J)(3)(b).
 - We believe that further discussion regarding the way in which nuisance is described here is necessary for Part (K).
 - Restore original Coastal Commission staff recommended language related to ongoing agricultural activities in Part (L). Please see pages 10-12 of our August 21, 2015 comment letter.
 - Please note that splitting the exempt and non-exempt development into separate sections may result in additional edits to both 22.68.050 and 22.68.060 to ensure they conform with the Coastal Commission regulations. In fact, these sections are probably easier read and understood if not structured in that way, and instead structured in terms of exempt development only (i.e., if it is development in the coastal zone that is not exempt or excluded, it is development requiring a coastal permit, or potential coastal permit waiver).
- 22.68.060: Delete “as determined by the Director” in (D).
- 22.68.070:
 - We are interested in exploring with you and internally at our end how best to account for coastal permit waiver processes. Those discussions are ongoing, but not complete. For now, please restore Part (C). And note that Coastal Act Section 30624.9 provides for an expedited permit process for appealable development considered minor development through waiver of public hearing requirements.
 - Change waiver expiration back to two years.
- 22.68.080:

- Delete “or otherwise located within the California Coastal Commission’s retained coastal permitting jurisdiction” in Part (A).
- Replace “public trust lands and federal lands” in Part (C) with “lands defined above in (A)”.
- 22.70.010 and 22.70.020: Restore the previously agreed upon language regarding exemptions, and noticing requirements for exemptions, given that Commission review of exemption determinations is expressly authorized by Section 30625 of the Coastal Act. In addition, to the extent the development would be appealable to the Commission, such noticing requirements are necessary to implement section 13569 of the Commission’s regulations. Please restore the language for now. This is worth further discussion, but we note for now that this language was what came out of our prior discussions and agreements on these points.
- 22.70.030:
 - Restore exemptions and noticing for processing category determination in Part (B).
 - Restore all of Part (B)(2).
- 22.70.040: Add “unless the Applicant and County agree to an extension” to Part (C)(3).
- 22.70.050:
 - Add “at a conspicuous place, easily read by the public which is also as close as possible to the site of the proposed development” to Part (A) after “in at least one location...”.
 - Add “or for a specific geographic area” to Part (A)(3) after “for a specific area...”.
- 22.70.080 and Table 5-1:
 - Restore references to land divisions not being the principally permitted use in any zoning district in Part (B)(1)(c). Also conform Table 5-1.
 - Restore limitations on principally permitted uses so that any development that requires a variance, even though for permissible deviations, still not be considered principally permitted in Part (B)(1)(c). Also conform Table 5-1.
 - Delete “to be considered an aggrieved person” from Part (B)(2).
- 22.70.090: Restore Parts (A)(1-5) and (B)(1-2).
- 22.70.120: Change permit vesting time back to two years and restore all of the extension procedures.
- 22.70.140:
 - Add “and the necessity for a regular permit application later” to Part (D) after “including an expiration date...”.

- Add “defined as” and restore “a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential services” in Part (D)(1).
- Restore the majority of Part (D)(4) as follows, “The proposed work is the minimum amount of development necessary to abate the emergency in the least environmentally damaging manner”.
- 22.70.150: Restore all language in Part (C).
- 22.70.160: Restore deleted sentences in Part (C).
- 22.70.175: Restore Part (D).
- 22.70.190:
 - Restore all deletions made to Part (A). These modifications should be retained because they make clear that an unconditional certificate of compliance is only appropriate if the parcel was: (a) created prior to Feb 1 1973; (b) created in compliance with all laws in effect at that time; and (c) thereafter neither modified nor altered.
 - Restore all deletions made to Part (B). These modifications implement Coastal Act Section 30250 and LUP policy C-CD-3 and should be retained because they make clear that land divisions are appropriate only if: (a) the resulting parcel can be developed consistent with the LCP; (b) there is the necessary infrastructure to support development; and (c) the particular rural area has been 50% developed and the parcel would be no smaller than the average size of surrounding parcels. Same for Sections 22.65.040(C)(3)(c)(5)-(7).
- 22.130: (Note – CCC staff received a revised version of 22.130 on March 14, 2016 and has not yet fully reviewed them.)
 - Agricultural dwelling cluster: Add the "one cluster per farm tract limitation" of Section 22.32.024(B).
 - Agriculture Production Activities, Ongoing (Coastal): See pages 12-14 from our August 21, 2015 comment letter.
 - Existing: Revise definitions of “Existing,” “Existing residential second unit” and “Existing structure” so it is clear that such development must be legally existing, including having received a coastal permit if developed on or after Feb. 1, 1973.
 - Farm tract: Add the "one cluster per farm tract limitation" of Section 22.32.024(B).
 - Grading (coastal): Delete any thresholds or minimum volumes for defining grading as development requiring a coastal permit as that would not be consistent with the Coastal Act’s definition of development.
 - Redevelopment (coastal). See below.

- Stream bank: Retain original CCC suggested modifications because the thalweg cannot be used to identify the stream bank; ordinary high water mark demarcates the boundary.
- Correct all IP definitions relating to agriculture, agricultural accessory structures, agricultural processing facilities, and agricultural retail facilities so they conform to C-AG-2 and the Board’s originally adopted language for C-AG-2 that “accessory structures be appurtenant and necessary to the operation of agriculture.”
- Fix inconsistent references to Chapter 20 and Chapter 22. For example, “Implementation Plan” is defined in definitions chapter as including specified portions of Chapter 20 while IP references in Sections 22.60.010 through 22.60.030 instead refer to Chapter 22.
- Restore all deleted references to illegal lots, uses or structures as well as to coastal permit requirements for land divisions. These modifications should be retained because they make clear that an unconditional certificate of compliance is only appropriate if the parcel was: (a) created prior to Feb 1 1973; (b) created in compliance with all laws in effect at that time; and (c) thereafter neither modified nor altered. On or after Feb 1, 1973, in order to result in a legal lot, all development, including lot line adjustments and other changes in intensity of use of land required a CDP in order to be legally created.
- Revise definition of density bonus consistent with Govt. Code 65915(g).
- Revise definition of wetlands to eliminate exception for drainage ditches and conform to definition in Section 13577.
- Revise definition of appealable development to conform to Section 30603. Any local action on a CDP application for development approved in specified areas is appealable, including CDP amendment and extension requests.

3. Hazards.

- The timeframe for hazards analysis bears further discussion. For now:
 - Edit C-EH-1, C-EH-5, C-EH-17 and 22.64.060(A)(1)(a)-(b), 22.64.060(A)(2)(b), 22.64.060(B)(1)-(2) to require analysis and design for 75-100 years; or
- Redevelopment:
 - Restore deleted references to Redevelopment in C-EH-5(A)-(B) and restore C-EH-5(C).
 - Add the following permit conditions, which could be applied depending on the proposed development, to 22.64.060(B):
 1. Deed Restriction. Prior to issuance of the Coastal Development Permit, the Permittee shall submit to the Executive Director for review and approval documentation demonstrating that the Permittee has executed and recorded against the property governed by this permit a deed restriction, in a form and content acceptable to the Director: (1) indicating that, pursuant to this permit, the County of Marin has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special

conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and site plan of the property governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the property.

2. Disclosure of Permit Conditions. All documents related to any future marketing and sale of the subject property, including but not limited to marketing materials, sales contracts, deeds, and similar documents, shall notify buyers of the terms and conditions of this coastal development permit.
3. Coastal Hazards Risk. By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns:
 - (a) Assume Risks. To assume the risks to the Permittee and the property that is the subject of this CDP of injury and damage from coastal hazards;
 - (b) Waive Liability. To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards;
 - (c) Indemnification. To indemnify and hold harmless the Coastal Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards; and
 - (d) Permittee Responsible. That any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittee.
4. No Future Shoreline Protective Device. No additional protective structures, including but not limited to additional or augmented piers (including additional pier elevation) or retaining walls, shall be constructed to protect the development approved pursuant to CDP #__ , including, but not limited to development associated with this CDP, in the event that the approved development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence, or other natural hazards in the future. By acceptance of this CDP, the Permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235, and agrees that no portion of the approved development may be considered an "existing" structure for purposes of Section 30235.
5. Future Removal of Development. The Permittee shall remove and/or relocate, in part or in whole, the development authorized by this CDP, including, but not limited to development authorized under this CDP, when any government agency orders removal of the development in the future or when the development becomes

threatened by coastal hazards, whichever happens sooner, or if the State Lands Commission requires that the structures be removed in the event that they encroach on to State tidelands. Development associated with removal of the residence or other authorized development shall require an amendment to this CDP. In the event that portions of the development fall to the water or ground before they are removed, the Permittee shall remove all recoverable debris associated with the development from the ocean, intertidal areas, and wetlands and lawfully dispose of the material in an approved disposal site. Such removal shall require an amendment to this CDP.

6. Agreement to Bluff Retreat Monitoring. By acceptance of this permit, the Permittees agree, on behalf of themselves and all successors and assigns, to the following bluff retreat monitoring requirements for the use of the bluff-top residential parcel (APN xxx-xx-xxx): a. The Permittees agree to undertake annual bluff measurements and to submit annual measurement results to the County of Marin every year by June 1st (i.e., following the end of the previous rainy season) beginning the first year following the date of approval of this coastal development permit (i.e., the first date being 6/1/15); b. The Permittees agree to have a Certified Engineering Geologist or Geotechnical Engineer undertake periodic bluff stability analyses.
 7. Term of Authorization. This CDP authorizes xxx, until xx-xx-xxxx, or until the time when the currently existing structures warranting protection are no longer present and/or no longer require such protection, whichever occurs first. If the Permittee intends to keep the existing shoreline protection system or any portion of it in place, after xx-xx-xxxx, the Permittee must submit a complete CDP application (or complete CDP amendment application if deemed appropriate by the Executive Director) prior to xx-xx-xxxx. Otherwise, the Permittee shall submit two copies of a removal and restoration plan to the Executive Director for review and approval, where such plan shall provide for the removal of the shoreline protection system and restoration of all affected areas in a manner designed to be most protective of coastal resources, no later than xx-xx-xxxx.
- o Restore deleted definition of Redevelopment in 22.130, or at a minimum restore the following:

Redevelopment (coastal). Development that is located outside of blufftop or shoreline areas that meet criteria A or B below:

A. Development that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, and/or (3) demolition of an existing bluff home or other principal structure, or portions thereof, which results in:

(1) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.

(2) Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LUP; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area, taking into consideration previous additions approved on or after the date of certification of the LUP.

B. Development that consists of any alteration of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction, as per National Flood Insurance Program (NFIP) requirements administered by the Federal Emergency Management Agency (FEMA).

- Addressing SLR impacts on other coastal resources:
 - Restore and update reference to C-EH-5(B) in C-BIO-9.
 - Modify BIO-19 to address the impacts of sea level rise on wetlands.
 - Modify C-DES-4 and C-CD-6, as necessary, to be consistent with C-EH-9, C-EH-11, and/or C-EH-12.
 - Modify C-DES-6 to address the impacts of sea level rise on utilities.
 - Modify C-CD-7 to acknowledge the impacts of sea level rise on public trust lands.
 - Modify C-PFS-6 to acknowledge the impacts of sea level rise.
 - Modify C-PK-14 to acknowledge the impacts of sea level rise.
 - Modify C-PA-2 to ensure public access is maintained along the shoreline if homes are elevated (i.e. public access underneath elevated homes).
 - Provide complementary policies to address impacts associated with a program of elevation proposed along the shoreline, including with respect to mitigation for coastal resource impacts over time; removal and restoration triggers; public trust triggers; policies to address continuation of public and//or private services; etc.
 - Add C-TR policies to address the impacts of sea level rise on county-maintained and private roads and include directives for other county agencies, such as public works, in considering sea level rise in road maintenance projects.
 - Add IP sections to implement these LUP policies.
 - Ensure that draft EH policies do not conflict with other aspects of LCP.
- Cross references:
 - Incorporate language from cross-referenced Marin County Development Code Floodplain Ordinance, including floodproofing standards, into C-EH-3(1).

- Incorporate the cross-referenced FEMA’s Flood Insurance Rate Maps and the Flood Boundary Water Maps for Marin County into the Potential Sea Level Rise Maps.
- Delete C –EH-4(4) or add C-EH-4(5) to include “For shoreline development, see Policy C-EH-5.B.” to acknowledge that shoreline hazards and geologic hazards may overlap.
- Add “defined as development located in the Potential Sea Level Rise Maps” to incorporate impacts of sea level rise into C-EH-5(B).
- Delete the addition of “new” from C-EH-5(B) in reference to shoreline protective devices.
- Restore deleted language regarding including existing shoreline protective devices in analysis for redevelopment projects in C-EH-5(A)-(B) and 22.64.060(A)(1)(a)-(b).
- Restore deleted setback language in C-EH-5(B), 22.64.060(A)(2)(b), and restore 22.64.060(B)(5).
 - Restore deleted language in C-EH-5(B) regarding the assessment of impacts of elevating structures on public access, impacts over time, ingress/egress to the structure, and provision of public services.
 - Restore deleted language in C-EH-11 and C-EH-12 regarding the protection of community character and scenic resources and add similar language to C-EH-9.
- Submit “Potential Sea Level Rise Maps,” maps of natural grade for parcels in Marin County, and renderings of the proposed maximum height changes, to facilitate review of proposed policies C-EH-8 through C-EH-12.
- Change C-EH-13(1) to “prior to enactment of the California Coastal Act (January 1, 1976)”.
- Restore deleted portions of C-EH-13(8).
- Add a date for a subsequent LCPA to convert Programs C-EH-22.a(3)-(6) into Policy.
- Delete the last paragraph from C-EH-3, the last sentence of C-EH-5(B), and restore ‘only’ and delete ‘with a coastal permit waiver’ from C-EH-25 because CDP procedures are addressed through 22.68 and 22.70 of the IP.
- Restore deleted sentences from 22.64.060(A)(1)(a), starting with “The County’s hazard mapping program...”
- Delete addition of “flood, blufftop erosion, shoreline erosion” from 22.64.060(A)(1)(b), because geologic and other hazards are defined in 22.64.060(A)(1)(a) and a subset should not be introduced in (b).
- Restore deleted sentences in 22.64.060(A)(1)(b), starting with “The Report shall be required to demonstrate that...”.
- Delete 150 feet from the definition of Blufftop (coastal) in 22.130.

Please note that we will have additional comments as we continue our review of County staff's draft documents, particularly relating to hazards and draft IP provisions, as well as the previously transmitted LUP and IP materials relating to agriculture. It is our understanding that County staff will publish its staff report on the revised LCP update on March 31st, to which we will respond via comment letter in advance of the April 19th Board of Supervisors hearing. It is also our understanding that the County hopes to submit the LCPA to the Commission by April 22nd, 2016. Commission staff looks forward to working with you and other members of the County on this project. Please do not hesitate to contact Shannon Fiala of my staff at (415) 904-5266 or myself at 415-904-5290 if you have any questions regarding the above comments.

Sincerely,



Nancy Cave
District Manager
North Central Coast District