

April 12, 2016

Kathy Hartzell, President
Inverness Association
PO Box 382
Inverness, CA 94937

Subject: Appeal Jurisdiction Area in Inverness

Dear Ms. Hartzell,

This letter is in response to your letter dated April 5, 2016 regarding the status of the Appeal Jurisdiction area in Inverness. CDA Staff had requested that post-certification permit and appeals maps for Marin County reflect a reasonable interpretation of the “first public road” to help streamline the coastal permit process, maintain public confidence in the system, and still fully protect coastal resources. For the Inverness area, staff suggested Sir Francis Drake Boulevard as the “first public road.” The adoption of the Permit and Appeals area is something the Coastal Commission itself does if and when Marin’s LCPA is certified by the Commission. As it now stands, Coastal Staff have indicated (Exhibit A) that neither the Coastal Commission nor Commission Executive staff will recommend limiting the geographic extent of the Commission’s Appeal Jurisdiction for any reason. According to Commission staff, this means the draft maps currently shown must be revised to reflect Highway One as the First Public Road. This effectively eliminates the proposed non-appealable areas shown on the draft maps. The following provides a more detailed history of the process County staff carried out.

As part of the Local Coastal Program Amendment (LCPA) to the Marin County Local Coastal Program, in 2009 staff began working with California Coastal Commission staff to review updated cadastral (parcel-based) Post-LCP Certification Permit and Appeal Jurisdiction data that would be recommended for adoption by the Coastal Commission. During this review, staff requested Commission staff consider modifying the Appeal Jurisdiction areas for the communities of Bolinas and Inverness, based on the definition of the “first public road” which, in this case, is Highway One.

Staff reasoned that the designation of Highway One as the one and only “first public road” in Marin County, for the purpose of coastal permit appeals, has had burdensome consequences for the public, permit applicants, and the County, without enhancing protections for coastal resources. The entire communities of Bolinas, Inverness, and Inverness Park are defined as being in the appealable area, based on the defined “first public road,” even where Highway One is located blocks or miles away on the far side of Tomales Bay. Much of the land in these communities is nowhere near the sea, nor even visible from the sea. On sites located long distances from the shoreline, coastal permits obviously have not raised issues such as protection of shoreline public access or protection of coastal views.

The communities noted above are located on peninsulas. On a peninsula, a road inevitably comes to an end, even though it may be part of a local system with multiple connections to Highway One. The Coastal Commission's regulations that define "first public road" generally omit "dead-end" roads (Section 13577 (i)(1)(E)), hence the designation of Highway One in Marin County as the "first public road."

But the Coastal Commission's regulations anticipate that defining the first public road may be challenging in any given instance, and the regulations provide for two types of flexibility. First, the regulations provide that if all criteria, except the "through-road" one, can be met, then an alternate route can be designated as the "first public road." The appealable area would then be limited to "all parcels between the Pacific Ocean and such other public road" and "those parcels immediately adjacent of the sea inland of such other public road." Applying that provision to, say, the community of Bolinas would result in narrowing the appealable area to those parcels around the perimeter of the peninsula that do in fact touch on the sea or Bolinas Lagoon and where development could conceivably raise public coastal access or view protection concerns. (Of course, we understand that the appealability of parcels adjacent to coastal bluffs, wetlands or streams would remain in effect, regardless of the definition of "first public road.")

Secondly, the regulations support an examination by the Coastal Commission of the actual impact of the "first public road" designation on the coastal permit process. The regulations allow the Commission to limit the geographic area that is appealable based on the "first public road" criterion to such area that makes sense, in terms of issues raised by development in those areas. Since the Marin County Local Coastal Program was certified nearly three decades ago, the County has accumulated an ample fund of evidence regarding coastal permits and issues raised on appeal. Well over 2,000 coastal permits have been processed by the County in those nearly 30 years (as of mid-2009, the Coastal Commission had reported 2,107 coastal permit notices, while the County had registered 224 projects subject to categorical exclusion). The number of appeals filed with the Coastal Commission during those decades is extremely small. Based on our research, there are perhaps only 10 altogether (A-2-82-16 Rosen; A-2-MCS-85-2 Herrera; A-1-MAR-87-235 Seadrift Assoc.; A-2-MAR-09-014 Sutton; A-2-MAR-09-001 Biondi; A-2-MAR-08-028 Lawson's Landing; A-2-MAR-09-101 Crosby; A-2-MAR-03-008 Webber; A-1-96-81 Garside; A-2-MAR-03-019 Three Sons). Predictably, many or most of these appeals originated with developments on shoreline parcels; only two came from Bolinas (neither involving shoreline access), and none came from Inverness.

In sum, staff requested that the digital post-certification permit and appeals maps for Marin County now in preparation reflect a reasonable interpretation of the "first public road." Doing so will help streamline the coastal permit process, maintain public confidence in the system, and still fully protect coastal resources. For the Inverness area, staff suggested Sir Francis Drake Boulevard as the "first public road."

Coastal Commission staff indicated revisions to existing certified Post-LCP Certification Permit and Appeal Jurisdiction maps are often adopted after an LCP amendment. Thus, public hearings on this matter will not occur until after Marin's LCPA is certified by the Commission. More importantly, in 2014 Commission staff indicated neither the Coastal Commission nor Commission Executive staff will consider using their discretionary authority to either recommend limiting or to limit the geographic extent of the Commission's Appeal Jurisdiction for any reason. According to Commission staff, this means the draft maps currently shown must be revised to reflect Highway One as the First Public Road, consistent with the existing certified maps. This effectively eliminates the proposed non-appealable areas shown on the draft maps.

I hope the background information provided above answers your question on the appeal area in Inverness. Please contact me if you have further questions.

Sincerely,

Kristin Drumm
kdrumm@marincounty.org
(415) 473-6290

Attachments:

- 1: Email Correspondence from Jon Van Coops, California Coastal Commission, dated July 3, 2014.
2. Map 28a – Revised 8/16/11 Appeal and Permit Jurisdiction Areas Northwest Marin

From: [Van Coops, Jon@Coastal](mailto:Van_Coops_Jon@Coastal)
To: [Drumm, Kristin](mailto:Drumm_Kristin); [Benoit, Greg@Coastal](mailto:Benoit_Greg@Coastal)
Cc: [Rance, Darryl@Coastal](mailto:Rance_Darryl@Coastal)
Subject: RE: Status of Marin LCP Post Cert maps
Date: Thursday, July 03, 2014 10:36:37 AM

Hi Kristin,

Hope all is well... Once again I'm responding in Greg's absence for the holiday but I'm sure he'll touch base with you next week.

Briefly, we're are in the midst of getting the maps for the Santa Monica Mountains segment of LA County adopted right now. This action is tentatively agendized for the August Commission hearing, with the related mailing is this month. Marin County is next in the queue; we have been making some further refinements to the permit boundary where based on the public trust land boundary, but there are a couple of things we would also like to review and discuss soon:

1. Unlike an initial Post-Cert. map adoption, a *revised* map adoption such as this one, while not required by statute to be done in conjunction with an LCP approval, *is* often adopted after an LCP amendment. It makes sense logically, and our plan has been to schedule Marin's map adoption for the Commission meeting immediately following the hearing at which they adopt the revised IP portion of the County's LCP. My understanding is that Coastal Commission consideration of the revised IP is tracking towards the fall, which would mean the map adoption would take place after that.
2. Perhaps more importantly, I was informed after this last May's Commission action on the LUP that both the Commission and Commission Executive staff will *not* consider using their discretionary authority to either recommend limiting or to limit the geographic extent of the Commission's Appeal jurisdiction for any reason. The practical outcome of this position is that we must revise the draft revised maps to reflect Highway One as the First Public Rd., as it was on the previously adopted maps. Of course, the effect on the extent of the mapped geographic appeal jurisdiction is that it eliminates the proposed non-appealable areas we had identified based on 14CCR Section 13577(i)(2).

We should plan to discuss this and any other details soon.

Have a nice 4th of July holiday!

Jon

From: Drumm, Kristin [mailto:KDrumm@marincounty.org]
Sent: Wednesday, July 02, 2014 10:19 AM
To: Benoit, Greg@Coastal
Cc: Van Coops, Jon@Coastal
Subject: Status of Marin LCP Post Cert maps

Hi Greg,

I am just checking in to find out the status of when you think you will bring Marin's LCP Post Certification maps to hearing. As you may know, the Commission approved with modifications Marin's land use plan policies on May 15, 2014. Please let me know what the next steps are with the maps. Have a great 4th!

Regards,
Kristin

Kristin Drumm, AICP
SENIOR PLANNER

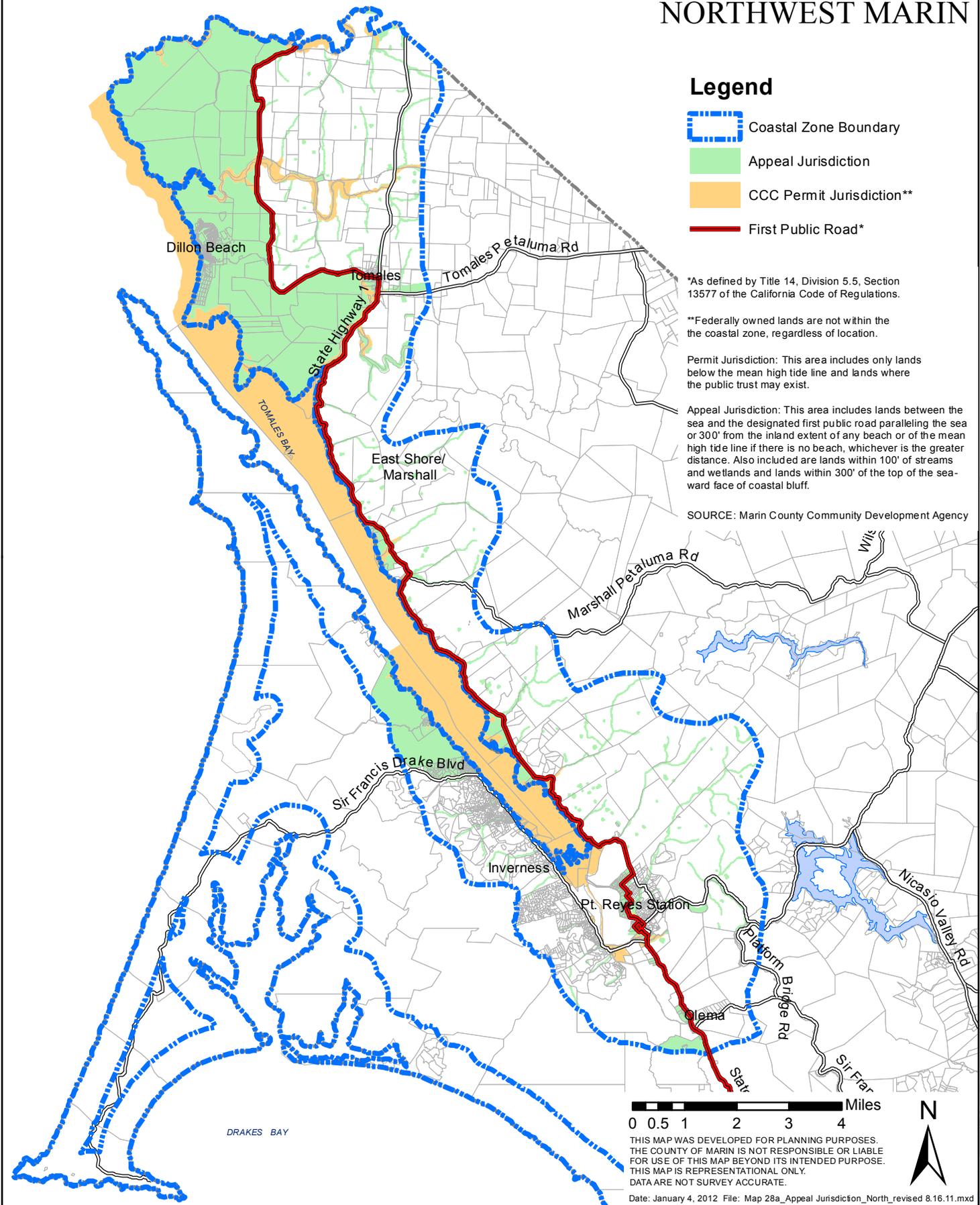
County of Marin
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Email Disclaimer: <http://www.marincounty.org/main/disclaimers>

DRAFT MAP 28a - Revised 8/16/11

APPEAL AND PERMIT JURISDICTION AREAS NORTHWEST MARIN



Legend

- Coastal Zone Boundary
- Appeal Jurisdiction
- CCC Permit Jurisdiction**
- First Public Road*

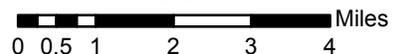
*As defined by Title 14, Division 5.5, Section 13577 of the California Code of Regulations.

**Federally owned lands are not within the the coastal zone, regardless of location.

Permit Jurisdiction: This area includes only lands below the mean high tide line and lands where the public trust may exist.

Appeal Jurisdiction: This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of coastal bluff.

SOURCE: Marin County Community Development Agency



THIS MAP WAS DEVELOPED FOR PLANNING PURPOSES. THE COUNTY OF MARIN IS NOT RESPONSIBLE OR LIABLE FOR USE OF THIS MAP BEYOND ITS INTENDED PURPOSE. THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY ACCURATE.