



March 29, 2016

Marin County Community Development Agency
Jack Liebster
Via email: marinlcp@marincounty.org

Re: Local Coastal Program: Draft Implementation Plan

Dear Mr. Liebster:

The Environmental Action Committee of West Marin (EAC) offers the attached preliminary comments on the draft Implementation Plan (Development Code) for the LCP update.

Respectfully,

A handwritten signature in black ink that reads "B. Mitchell".

Bridger Mitchell
President

Comments on LCPA IP 2-2-2016 revised version

	<i>IP Section</i>	<i>Subsection</i>	<i>Recommended change</i>	<i>Remarks</i>
<i>Principal Permitted Uses</i>				
	22.32.026 – Agricultural Processing Uses	A {final paragraph}	MODIFY: In order to qualify as a PPU agricultural processing must comply with A.4 (the parking standard).	
	22.32.026	A.	ADD: 5. The processing-facility is not placed on land designated as prime agricultural land.	
	22.32.027 – Agricultural Retail Sales	A.	ADD: to be a PPU, a use must also meet parking standard (B.1)	
	22.62.060 – Coastal Agricultural and Resource-Related Districts	22.62.060.B.1 (C-APZ)	ADD: Itemization of PPU developments must include: “appurtenant and necessary to the operation of agricultural uses”	per LUP Policy C-AG-2
	22.62.060	22.62.060.B.1.d(2)	Educational tours: INSERT: non- profit and owner-operator conducted	C-AG-2.5.b and B.
	22.62.060	Table 5-1-a Rows for: Intergenerational homes; Farmhouse; processing; retail sales; worker housing	The detailed standards are necessary to distinguish PPU, P, and U permit requirements for Intergenerational Homes; Farmhouse, ag processing; ag retail sales; ag worker housing– RETAIN: (parenthetical) standards in column 1.	<i>See:</i> EAC letter to CCC, 8-30-15. <i>Cf:</i> 22.65.040; 22.32.026.A; 22.32.027.A
<i>Maximum height</i>				
	22.64.030 –General Site Development Standards: Maximum Height	Tables 5-4-a; 5-4-b; 5-5. Maximum Height footnotes. (4)b; (4); (3)	REQUIRE: Both Design Review and Coastal Zone Variance for an exception to maximum height.	DES-4 states maximum heights. “In all cases, the height limits specified in this policy are maximums ...”
	22.64.045--Property Development and Use Standards	22.64.045.2.A.1	REQUIRE: Maximum fence height for planned districts as well as for conventional districts that specify setbacks.	
	22.65.030 – Planned District General Development Standards	22.65.030.D.2	Development near ridgelines. Needs to set a lower maximum height within vertical and horizontal setbacks.	

Visual Resources				
	22.64.110 – Community Development	1. Location of new development.	ADD: New development shall be located ... where it will not have significant adverse impacts ... on environmental and natural resources, scenic and visual resources , including coastal resources.	
	22.68.04 – Coastal Permit Not Required: Categorically Excluded Development	A	ADD: Development specifically designated as categorically excluded ... is not subject to Coastal Permit requirements if such development is consistent with all terms and conditions of the Categorical Exclusion Order, “including that the new development will not adversely impact public views or scenic coastal areas”	Section 30251. Exclusion Order E-81-6: “no exclusion can be granted for certain types of development in areas where public views or scenic coastal areas could be adversely impacted.”
Variances				
	22.65.060 – C-RSP Zoning District Standards	22.65.060.C.	REQUIRE: A Coastal Variance to exceed height limit on the shoreline of Tomales Bay.	Additional height should only be permitted by Coastal Variance, not at Director’s discretion
	22.70.080 – Appeal	B.1 (c)	RETAIN OR REVISE: (any use that also requires the granting of a Coastal Zone Variance shall not be considered a principal permitted use;	Coastal Zone Variance must be appealable to cover developments that do not qualify as PPU, e.g. due to excess height in a zoning district. The certified Title 22.86.025I, .040I provides for appeal of both administrative and public hearing variances.
	22.70.150 – Coastal Zone Variances	C.	RETAIN: approval of any coastal permits for development that also requires a coastal zone variance shall be appealable in compliance with Section 22.70.080	A variance that allows development to exceed the maximum height specified for the zoning district in the LUP removes the use from PPU, and must be appealable. Certified IP provides for appeal: 22.86.040I Appeals
	22.70.190 – Property Modifications	C. Lot line adjustments	PROHIBIT: creating any parcel smaller than the maximum density of the zoning district, unless development is prohibited?	Prevent increased density exceeding maximum allowed as a result of property line adjustments.
	22.65.040 – C-APZ Zoning District Standards	22.65.040.C.3.b(2). Non-Ag development	DELETE: references to <u>residential</u> use.	Residential use is not permitted in C-APZ, only agricultural dwelling units.

<i>Widest Opportunity for Public Participation</i>			PPU applications generally do not receive a public hearing. If the county appeal requires a fee, public participation in a hearing is limited. A PPU should either receive a public hearing, or the appeal of an administrative decision for a PPU should not be subject to fee.	CA § 30006
	22.70.080 – Appeal of Coastal Permit Decision	A.5.	<i>EITHER RETAIN:</i> 5. No such appeals shall require a fee.	<i>Either:</i> Allow appeal without fee, to enable public hearing.
	22.70.030 – Coastal Permit Filing, Initial Processing	B.3	<i>OR ADD UNDERLINED: Non-public hearing applications.</i> A public hearing shall not be required when an application is <u>not for a principal permitted use and is not</u> appealable to the Coastal Commission by 22.70.080	<i>Or:</i> Provide for public hearing for any PPU.
		B.4	<i>AND ADD UNDERLINED: Public hearing applications.</i> A public hearing shall be required when a project is <u>for a principal permitted use or is defined as</u> appealable to the Coastal Commission by 22.70.080 - Appeal of Coastal Permit Decision, unless the proposed project only entails the approval of a second unit in a residential zone or if it qualifies for a public hearing waiver.	<i>And:</i> Provide for public hearing for any PPU.
<i>Procedural Requirements</i>				
	22.68.040 CatEx development	B. Noticing	RETAIN: or have requested to be kept informed regarding the type of development subject to the categorical exclusion and/or development at the location and/or within the particular zoning district) RETAIN: The Director shall maintain, post on the Agency's website at least weekly, and regularly transmit to the Coastal Commission a list and summary	List and summary needs to be publicly posted on website. The right to challenge an exclusion determination is empty without timely posting of list of exempt determinations. Also, how would someone know to specifically request notice of a categorical exclusion determination?
	22.68.050 Exempt development	First paragraph	RETAIN FINAL SENTENCE: The Director's determination of whether a proposed development is exempt from Coastal Permit requirements can be challenged pursuant to Section 22.70.04.	
	22.68.050 Coastal Permit Not Required: Exempt Development	C. Repair and maintenance.	Replacement of 50% or more should be a <u>cumulative</u> measure over time.	§ 13252(b) CCC regs.: 50+% requires a CDP

	22.68.070 – De Minimis Waiver	C.	RETAIN: Not Appealable to CCC. The development is not of a type or in a location where an action on the development would be appealable to the Coastal Commission.	A development that would be appealable to CCC should not be eligible for a <i>de minimis</i> waiver.
	22.70.040 – Challenges	A & B	RETAIN: “exemptions, <i>de minimis</i> waiver” from determinations subject to challenge.	Without the right to challenge a Director’s determination no other recourse exists for an exemption determination or a waiver.
	22.70.050 – Public Notice		RETAIN: “conspicuously visible to the general public” requirement for posting notice at the property.	Some West Marin communities have no home mail delivery; posted notice is especially important for informing residents who may not be property owners.
	22.70.050	A.3	“written request” : DEFINE to include request by electronic mail	
	22.70.090 – Notice of Final Action	A & B.	Why were the (deleted) detailed memo and supporting materials required in the baseline draft? [was this language intended to specify requirements for submission to CCC?]	
	22.70.120 – Expiration Date	A.1	CHANGE TO: 3-year time limit, with opportunity for one 3-year extension. RETAIN: A.2, A.3: extension of time, action on extension.	Six year vesting period is far too long. Extension public hearing allow consideration of changed circumstance Example: Starbuck Drive (Malone), Muir Beach.
	22.70.140 – Emergency Coastal Permits	E.	RETAIN: provision to challenge an extension beyond 6 months. Any extension of an emergency permit after 6 months should be challengeable.	Any extension of an emergency permit after 6 months should be challengeable.
	22.70.190 – Property Modifications	C. Lot line adjustments	PROHIBIT: creating any parcel smaller than the maximum density of the zoning district, unless development of the parcel is prohibited?	Prevent increased density exceeding maximum allowed as a result of property line adjustments.
Definitions				
	22.130. 130 Definitions	<i>Density</i>	INCLUDE a definition	
	22.130. 130	<i>Written request</i>	INCLUDE a request by electronic mail.	