

Good Afternoon, Chair Kinsey and Supervisors:

My name is Bridger Mitchell. I am president of the Environmental Action Committee of West Marin. The EAC has actively participated in every stage of the LCP Amendment process for eight years.

Today's Board of Supervisors hearing is the first public presentation of staff-recommended policies for adaptation to sea level rise in Marin's coastal zone. Today is also the first presentation of proposed "commercial core areas" that would rezone the coastal Village Commercial Residential districts.

Our remarks will cover 3 topics:

- Comments on the draft LCP Amendment
- The county process to amend the LCP
- How to avoid a third disaster for the county at the Coastal Commission

1. EAC, along with other concerned groups and individuals and Coastal Commission staff, have reviewed the voluminous draft documents. Those specific and detailed comments are found in your briefing packets. For example, the Coastal Commission staff submitted 16 single-spaced pages of comments.

County staff specifically requested that comments be submitted by March 30 in order to prepare the draft now before you, and staff intended to take those comments into account in their recommendation to you. But staff has told us, and you, that their schedule did not provide them sufficient time to do so. So, despite 8 years of effort the public process has been rushed.

I will not review the substance of those comments now. Other speakers will certainly emphasize some of the major points concerning environmental hazards, adaptation to sea level rise, and rezoning coastal village mixed-use districts.

2. The procedure required to amend the **coastal chapters** of Marin's Development Code is not well specified. Last week the CDA Director concurred in the Commission staff's opinion that there is no state law that requires referring an amendment to the LCP to the Planning Commission.

However, our county law spells out the process to amend Marin's Development Code. That's set out in Interim Code Chapter 22.90 and Development Code Chapter 22.116. Any Amendment that is **not** part of the coastal program must always begin at the Planning Commission and receive its recommendation to the Board. And if you make substantive modifications they must be returned to the Planning Commission for further review.

Of course, the LCP coastal chapters are **also** components of the county's Development Code [see Resolution at ¶30]. It's been 36 years since the Marin LCP was certified. During those years it has been amended 19 times: **Fifteen** of those amendments originated at the Planning Commission. In three other cases a Board resolution directly changed a single property's density or rezoned individual parcels.

The draft documents before you today are substantial modifications of the original Amendments recommended to you by the Planning Commission four years ago.

The county and Commission staff are still at loggerheads on a number of fundamental issues. These include:

- The definition of redevelopment in hazardous areas – where is the line between repair and maintenance *versus* reconstruction that requires a coastal permit? And
- Whether elevation of an existing structure can have individualized effects on community character and other coastal resources, or whether it's all of no consequence, and just part of Marin's "funky community character", as staff suggests.

These issues won't go away if you approve these amendments today. The Coastal Commission will unilaterally resolve them. And those issues are just two examples.

- The draft contains many hundreds of changes -- to the LCP policies, implementation regulations, and maps that you previously approved.
- Many staff-proposed changes clash with modifications that will be required by the Coastal Commission staff.
- Staff has not yet responded to comments from the public and the Coastal Commission staff.

It's essential to understand: Once your Board votes to approve the draft Amendment the county has effectively lost control of its destiny. The choice now becomes: **take-it-or-leave-it** – take the Commission's final version, or withdraw the Amendments and regroup once again.

How do we know this? Because this would be the third time you've done it.

- Version 1: The Supervisors adopt Amendments in July 2013. Coastal Commission staff recommends extensive modifications. The Coastal Commission votes to approve the Land Use Plan in May 2014. The Supervisors subsequently repudiate the Commission's version.
- The sequel, Version 2: At the Commission meeting in April 2015 the county withdraws the LCP Implementation amendment to avoid certification of objectionable modifications. In August 2015 the Supervisors adopt

Agricultural land use and Implementation Plan amendments. Commission staff recommends extensive modifications. Time passes, and all Commission approvals lapse.

- Version 3 (appears to be): The Board adopts the draft amendment before you today. Commission staff then recommends the extensive modifications detailed in its comments. At the Commission meeting the modified Amendment, containing the policies and provisions the county finds objectionable, is either approved or again withdrawn.

If you go down that road again, why would you expect a different result?

3. So -- How can Marin avoid a third rejection?

- Acknowledge that Commission staff's substantive comments and objections to the draft must be addressed. It is far preferable for the county to prepare the necessary modifications rather than leave key unresolved issues to the Commission staff to decide.
- Accept the Commission staff's offer of more time to work with the county before you take final action on the draft Amendments.
- Ask the Planning Commission and your staff to modify the draft to respond to Coastal Commission staff and public comments and recommend an improved draft to your Board.
- Postpone a vote to adopt the revised Amendment until the county draft overcomes the fundamental objections raised by Coastal Commission staff.

In summary, EAC respectfully urges you not to take the same wrong road a third time. Instead, please direct the Planning Commission to revise the draft in order to overcome Coastal Commission staff objections and incorporate suggested responsible changes from the public.

Thank you for this opportunity to comment.