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May 11, 2017

Marin County Board of Supervisors  
3501 Civic Center Drive  
San Rafael, CA 94903

*Via US Mail & Electronic Mail: [marinLCP@marincounty.org](mailto:marinLCP@marincounty.org)*

Re: Public Hearing - Marin County Local Coastal Program Amendment

Dear Supervisors:

The Environmental Action Committee of West Marin ("EAC") respectfully submits the following comments regarding the Marin County Board of Supervisors' ("Board") consideration of the Coastal Commission's conditional certification of the Marin County ("County") Local Coastal Program ("LCP") Update with suggested modifications.

Since 2008, EAC has been actively involved in the County's LCP amendment process, participating in both County and Coastal Commission public hearings.

EAC reminds the Board that at the Coastal Commission's November 2016 hearing, the Commission unanimously rejected the Board-approved Land Use Plan and Implementation Plan submission, because the submission was inconsistent with the Coastal Act:

*The Commission hereby denies certification of Land Use Plan Amendment LCP-2-MAR-15-0029-1 as submitted by the County of Marin and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act....<sup>1</sup>*

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<sup>1</sup> *Marin County Local Coastal Program Amendment Number LCP-2-MAR-15-0029-1 (Marin LCP Update) Staff Report*, October 21, 2016, page 10. See also page 11 for the denial of the County-submitted Implementation Plan submission.

The Board now has the opportunity to complete nine years of hard work on the non-environmental hazards amendments (numbers 1, 2, 3, 6 and 7) by accepting the Coastal Commission suggested modifications for these amendments in their entirety, including both the Land Use Plan and the Implementation Plan. It is in the best interest of the public, and the best use of the substantial taxpayer funds that the County has already expended, that the Board accepts these amendments so that the LCP Update process can continue to move forward.

**The Board only has two Options: 1) Accept or 2) Reject the Coastal Commission's Conditionally Certified Suggested Modifications.**

The Board has a binary choice before it: 1) **to accept** the Coastal Commission conditionally-certified Land Use Plan and Implementation Plan without qualifications, not including environmental hazards, or 2) **to reject** the conditionally-certified Land Use Plan and Implementation Plan, not including environmental hazards.

The Coastal Commission conditionally certified the non-environmental hazards amendments with suggested modifications (including the Land Use Plan and the Implementation Plan) in November 2016. However, the County Community Development Agency ("County staff") is bringing before the Board on May 16, 2017 only the Land Use Plan (amendments 1 and 2), with interpretations, some of which are inconsistent with the Coastal Act.

**At this point, LCP Revisions can Only be Made Through Subsequent LCP Amendments.**

No revisions, qualifications, or substantive interpretations can be made at this point.<sup>2</sup> The Coastal Commission already conditionally certified both the Land Use Plan and the Implementation Plan, not including environmental hazards on November 2, 2016. If the County has any remaining issues with the conditionally-certified amendments, these issues will need to be raised in a subsequent amendment process. The only options the Board has before it on May 16, 2017 are to approve (or reject) all of the non-environmental hazards amendments (including both the Land Use Plan and the Implementation Plan) and to direct County staff to prepare a resolution without qualifications for formal adoption (or rejection) at the next scheduled Board meeting.

EAC recommends that *all* of the non-environmental hazards amendments, including the Land Use Plan (amendments 1 and 2) and the Implementation Plan (amendments 3, 6, and 7) be brought before the Board for its approval. The County staff's proposed piecemeal approach of considering first the Land Use Plan and then the Implementation Plan separately serves no purpose other than to further delay the completion of the critical environmental hazards sections.

Since only the Land Use Plan amendments have been put before the Board for the May 16 hearing, EAC strongly urges that your Board direct County staff to prepare a new resolution to approve all of the amendments with the Coastal Commission suggested modifications excluding environmental hazards and brings the resolution forward for the Board's consideration at the soonest possible date.

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<sup>2</sup> See Coastal Commission letter to the Board, May 9, 2017, page 9.

Only the Board's approval of the Coastal Commission conditionally-certified language has any legal effect. For this reason, the resolution should not be qualified by any unilateral interpretations. The only way to address substantive revisions is through a subsequent amendment process. The Coastal Commission has already indicated a willingness to work with the County on subsequent amendments when environmental hazards is brought back before the Commission: "As [the Coastal Commission has] discussed with your staff, *Commission staff cannot make changes to Commission-approved language that was conditionally certified on November 2, 2016.*"<sup>3</sup>

The only action that the Board can take at this point is approve or reject the Coastal Commission's conditionally-certified suggested modifications.

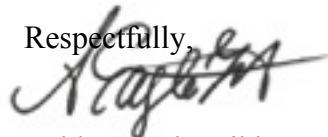
**The County and the Coastal Commission Need to Focus Their Limited Resources on Environmental Hazards.**

The County's environmental hazards amendments will expire after September 29, 2017, which means the Coastal Commission must act at the latest at the Commission's September 13-15 meeting.<sup>4</sup> Although those environmental hazards amendments were previously brought before the Board in April 2016, significant changes must be made to make them Coastal Act compliant and additional approval by the Board will be required. Due to this fast approaching deadline, it is critical that the Board act May 16 on the non-environmental hazards amendments.

The County's LCP amendment process has already been unduly protracted. The Coastal Commission's submission of the November 2016 suggested modifications to the Board marks the **third** time that the Coastal Commission has sent LCP modifications to the County. EAC hopes that this is the final time that the non-environmental hazards amendments are before the Board, so that the County and Coastal Commission can rapidly turn their attention to environmental hazards. It is EAC's strong recommendation that the Board should approve the non-environmental hazards amendments including both the Land Use Plan and the Implementation Plan with suggested modifications. In the meantime, the 1981 Certified LCP remains in effect until the *entire* LCP Update is approved by both your Board and the Coastal Commission, so please act without delay.<sup>5</sup>

Thank you for your consideration of our comments.

Respectfully,



Ashley Eagle-Gibbs  
Conservation Director

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<sup>3</sup> See *id.*

<sup>4</sup> See Coastal Commission letter to County, November 9, 2016.

<sup>5</sup> See *id.*