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April 19, 2018

Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
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Via Electronic Mail: BOS@marincounty.org /
marinLCP@marincounty.org

Re: Marin County Local Coastal Program amendments

Dear Supervisors:

The Environmental Action Committee of West Marin (EAC) submits the following comments regarding the Marin County Board of Supervisors' (Board) consideration of the California Coastal Commission's (Commission) 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 Commission public hearings.

EAC recently attended the March 20, 2018 LCP Update Public Workshop and submitted comments recommending action by the Board to accept all five of the non-environmental hazards amendments as modified by the Commission and to prioritize work on the environmental hazards amendment revisions.

Today, EAC is writing to supplement our March 20 public testimony and March 14, 2018 written comments to further encourage the Board to consider the broad coastal resource implications if the LCP Update amendments are not accepted, throwing away a decade of public work and further delaying access to the climate change planning tools our communities need.

Do Not Discard a Decade of Public Work and Compromises

The County embarked on the process to comprehensively amend the LCP in 2008. This decade-long effort has involved multiple stakeholder groups, community members, and agencies who have participated in the public process to ensure the LCP amendments take into consideration the communities' needs. The process has in many ways been an example of community collaboration and partnership, and, throughout, EAC has advocated for as much public involvement as possible.

The County undertook an enormous task in 2008 when it decided to revise the entire LCP rather than specific LCP sections. With such a comprehensive overhaul, there will undoubtedly be imperfections that might require future amendments. This would be a natural progression to ensure the LCP continues to fit within the local vision of, and planning for, our coastal communities.

The LCP amendments do not satisfy each individual or each group in every respect. In short, the LCP amendments are not perfect for the agricultural community, the environmental community, the residential community, or many of the other community sub-sets; but they are the result of a decade of work balancing the needs for community development and land-use with the protection of our coastal resources, as mandated by the California Coastal Act (Coastal Act).

As a result of this decade long public process, many compromises have been made by *all* interested parties and agencies. However, if the Board does not accept the amendments on April 24th and the May 2nd deadline is missed, all of the LCP amendments will be re-opened.

EAC, and others, are not likely to rely on past compromises if the LCP is not accepted on April 24th. Instead, EAC and others will revisit those compromises. As a non-profit organization whose mission is to protect and sustain our lands, waters, and biodiversity for future generations, we will continue to push harder for even stronger environmental protections if the LCP amendments are re-opened. In particular, EAC will insist on stronger wetland and other coastal resource policies, as well as stronger climate change policies.

The LCP Amendments are Closely Interconnected and Should All be Accepted or All Rejected

Understanding that County staff takes issue with certain LCP amendments (in particular Amendments Three and Seven), it may seem appealing to accept *only* certain amendments. But accepting only certain amendments will make implementation and continued planning problematic. The LCP amendments were approved by the Commission as an interconnected package, and it is extremely fraught to take a piecemeal approach to accepting or rejecting them.

EAC is concerned that accepting certain Land Use Plan (LUP) amendments without the companion Implementation Plan (IP) amendments ignores the Commission's LCP standard of review. The Commission's July Revised Findings state, "[t]he standard of review for the proposed LUP amendment is the Coastal Act and the standard of review for the proposed IP

amendment is whether it is consistent with and adequate to carry out the LUP with suggested modifications."¹

For example, rejecting Amendment Three without also rejecting Amendment Two is highly problematic, as the two amendments are closely connected. Amendment Three implements the land use policies of Amendment Two. The Commission has already considered and rebuffed the very arguments County staff is raising now as objections to Amendment Three. If the Board rejects Amendment Three, but accepts Amendment Two, the Commission will continue to rebuff County staff's arguments. You cannot succeed in changing one of these amendments without changing them both.

Staff also recommends the Board rejects Amendment Seven. Assuming the rejection of Amendments Two, Three, and Seven, we will be left with Amendments One and Six. Amendment One contains all the non-agricultural land use policies, but no implementing code. These policies will be frozen in time and will likely be outdated before they ever come into force. Amendment Six contains implementation measures for permit administration, but there will be no permits to administer, because the rest of the LCP is missing.

While it is EAC's recommendation that the Board accepts all five amendments, if the Board is deciding between 1) accepting only some of the LCP amendments, or 2) rejecting all of the amendments, then the latter is preferable. From EAC's perspective, the only rational choice is to accept all of the non-environmental hazards amendments. **We highly recommend accepting all five amendments so that we can turn to climate change adaptation planning for our coastal communities.**

It is important to remind ourselves of the end goal and not get lost in the weeds over secondary issues that may be resolved at a later time through smaller, and more easily digestible amendments, also subject to a full public process. For example, any concerns with Amendment Seven and its relationship to the environmental hazards sections should be raised as subsequent amendments when the environmental hazards sections are brought back to the Commission. It should be noted that our coastal communities have been waiting to begin the public process around environmental hazards for the last seventeen months.

Overall, the LCP Update provides critical updates to our outdated 1981 planning policies and implementation measures, and most importantly – once the environmental hazards sections are completed – critical planning tools for our communities to adapt to the impending threats of sea-level rise.

Our Coastal Zone Needs Climate Change Adaptation Planning Tools as Soon as Possible

To allow the conditional certification to expire would be fiscally, ecologically, and administratively irresponsible. The delay in sea-level rise adaptation planning that would result from the expiration would have significant impacts on West Marin's coastal resources.

¹ California Coastal Commission, *Marin LCP Update Revised Findings*, July 13, 2017, page 18, available at: <https://www.marincounty.org/~media/files/departments/cd/planning/local-coastal/newdocs/ccc-revised-findings-staff-report-and-addendum-71417.pdf?la=en>

If the LCP Update is not accepted, the 1981 Certified LCP will remain in effect. On face value, this may sound like an excellent idea as the 1981 Certified LCP is a forward-thinking document that has allowed for a balanced approach to Coastal Zone development and allowed our coastal communities to prioritize a vision for the future to provide maximum protection of ecological resources. Unfortunately, the threat of sea-level rise was unforeseen thirty-seven years ago, and the 1981 Certified LCP lacks appropriate planning tools to cope with development in the Coastal Zone and flood areas.

For example, Unit I of the 1981 Certified LCP prohibits development in the 100-year floodplain of Easkoot Creek, and thus impacted property owners are severely limited in adapting to sea-level rise.² Additionally, the Federal Emergency Management Agency regulations in some cases conflict with the 1981 Certified LCP, so new or reconstructed development requires variances that are legally questionable. Finally, without policies to ensure protection of coastal resources and provide comprehensive guidance for planning efforts, development applications will have to be handled on a case-by-case basis. This will harm coastal resources, as the available planning tools fail to evaluate the cumulative development impacts. In addition, this approach will be terribly inefficient and result in an excessive burden for County and Commission staff.

Without an LCP that addresses environmental hazards, how does the Board, and the County's Community Development Agency, propose to handle the extreme flooding, which we are already experiencing, in areas like Easkoot Creek?

In short, without an LCP Update that is able to protect coastal resources, West Marin will be left with an unsystematic, disjointed approach that fails to account for foreseeable cumulative impacts to public access, environmentally sensitive habitat areas, scenic and visual resources, and community character.

Environmental Hazards and C-SMART Must be Prioritized

There is an urgent need to complete the amendments to the environmental hazards sections of the LCP. The County's coastal communities cannot adequately plan for sea-level rise without the hazards amendments. Delaying environmental hazards years into the future jeopardizes the C-SMART process and our communities' ability to adapt to impending sea-level rise.

C-SMART's primary objective was to amend the LCP to include sea-level rise adaptation measures. Not only has this objective not been achieved, but the LCP amendments for environmental hazards have twice been rejected by the Commission for being inconsistent with the Coastal Act. The last publicly viewed version of the hazards sections was submitted to the Commission in November 2016 and subsequently withdrawn by the County in 2017.

To cope with sea-level rise and flooding, it is essential that the County prioritizes its LCP and other environmental hazards planning as soon as possible. The LCP process is the fundamental

² See *Marin County Certified LCP*, 1981, pages 79-80, available at:

<https://www.marincounty.org/depts/cd/divisions/planning/local-coastal-program/plans-and-docs>

tool for addressing sea-level rise in the Coastal Zone³, and the C-SMART program requires the LCP update of the environmental hazards sections to ensure a comprehensive and consistent planning process.

For example, in February 2018, the County approved an application for funding to conduct a feasibility study on a nature-based green infrastructure project “to develop a resilient beach and dune ecosystem that enhances existing habitats, and public access, supports vibrant recreational opportunities for users of all socioeconomic circumstances, and provides flood and erosion protection against coastal hazards and future sea level rise⁴.” The County is attempting to move forward with sea-level rise planning without the necessary framework provided by an LCP that addresses the environmental hazards we face now and in the future.

We encourage the County to adopt adaptation planning phases that are compliant with existing laws and regulations, including the Coastal Act, and that promote nature-based strategies for coastal resource protection, public safety, and public access. In order to do this, the County, alongside the Commission, must accelerate work on the environmental hazards sections of the LCP, allowing for additional public input.

Conclusion

In conclusion, EAC hopes the Board values the past decade of work, and strongly recommends the Board accepts all five non-environmental hazards LCP amendments and begins the important work of resubmitting the environmental hazards amendments before the end of 2018, so we can all begin to reap the benefits of an updated LCP. As mentioned earlier in this letter, despite the fact that the 1981 Certified LCP has, in many cases, preferable environmental protections compared to the LCP amendments, because adequate environmental hazards policies are completely absent from the 1981 Certified LCP, we are encouraging acceptance of all five non-environmental hazards LCP amendments so that we can move forward with hazards.

Thank you for your continued hard work on the LCP Update, and for the opportunity to comment. We look forward to continuing our long-standing participation in the County’s LCP Update and the C-SMART planning process.

Respectfully,



Morgan Patton
Executive Director

³ California Coastal Commission, *Sea Level Rise Planning & Permitting*, accessed April 18, 2018, available at: [Risehttps://www.coastal.ca.gov/climate/slr/planning-permitting/](https://www.coastal.ca.gov/climate/slr/planning-permitting/)

⁴ Marin County Community Development Agency, *Staff Report*, February 27, 2018, page 3. available at:

http://marin.granicus.com/DocumentViewer.php?file=marin_2418258a0739fcf6069c1ffa266d679b.pdf.