

## ERRATA

The numbering of section below is corrected, and two background sections inadvertently omitted are attached.

### **BOS Workshop – Discussion of CCC Modifications**

March 20, 2018

#### **AMENDMENT 3 IPA Agriculture Provisions**

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#### **AMENDMENT 7 – All other sections of the IPA**

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<u>7.6</u>	<u>Section 22.64.140 - Public Facilities and Services (attached)</u>	
<u>7.7</u>	<u>Section 22.64.170 - Parks, Recreation, and Visitor Serving Uses (attached)</u>	
7.68	Lowest Density Required for Widespread Areas of Any Hazard	p.19

#### **Key to text changes shown:**

1. The changes approved by the California Coastal Commission on Nov. 2, 2016 are shown in red.
2. The Coastal Commission staff letter of May 9, 2017 referenced below is provided as Attachment 3 to the May 20, 2018 Board Letter

## AMENDMENT 7- (Correcting inadvertent omission)

### 7.6 Section 22.64.140 - Public Facilities and Services

**Issue:** Section 22.64.140 carries out policy C-PFS-4. The policy language refers to community water or community sewage treatment facilities, however, the modified implementing language extends the new regulations to private wells and on-site sewage disposal sewer systems. In addition, Coastal Commission modifications include a new requirement that applicants submit a report demonstrating that a proposed new or expanded well not impact nearby biological resources and would not adversely impact available water supply for agricultural production or other priority uses. These new requirements could cause significant delay and cost for small scale projects, such as residential and commercial additions.

**22.64.140.A.1.b.** An application for new or increased well production ~~to increase public water supply~~ shall include a report prepared by State Licensed Well Drilling Contractors, General (Class A License) Engineering Contractors, Civil Engineers, or Geologists which demonstrates, to the satisfaction of the Director, that:

- 1) The sustainable yield of the well meets the LCP-required sustained pumping rate (minimum of 1.5 gallons per minute) and must be equal to or exceed the project's estimated water demand.
- 2) The water quality meets safe drinking water standards.
- 3) The extraction will not adversely impact other wells located within 300 feet of the proposed well; adversely impact adjacent biological and hydrogeologically-connected resources including streams, riparian habitats, and wetlands that are located on the subject lot or neighboring lots; and will not adversely impact water supply available for existing and continued agricultural production or for other priority land uses that are located on the subject parcel or served by the same water source (i.e. coastal-dependent uses, public recreation, essential public services basic industries vital to economic health of the region, state, or nation, and, within village limit boundaries only, visitor-serving uses and commercial recreation uses).

#### **Background**

Section 22.64.140.A.1.b pertains to development served by a well. The Coastal Commission modifications include, among other things, a new requirement that applicants submit a report demonstrating that a proposed new or expanded well would not impact "adjacent biological and hydrogeologically-connected resources" and "water supply available for continued agricultural production or other priority land uses." In response, the County raised concerns that the requirement to analyze potential capacity for priority land uses is not supported by Coastal Act Section 30254, which clearly requires consideration of service capacity for priority land uses in relation to new or expanded **public works** facilities (such as community water or sewage treatment facilities), not private individual water or wastewater disposal facilities. Furthermore, questions arise regarding the feasibility of determining resource and water impacts on neighboring properties. As a result, such reports may result in significant delay and cost for applicants.

#### **CCC Findings**

Coastal Act Section 30250 requires new development to be served by adequate public services, including water, sewer, and traffic. In areas with limited public services, Section 30254 explicitly

requires that service capacity be reserved for certain priority land uses. The Commission suggested modifications requiring analysis of impacts on resources and water agricultural production are needed to maintain consistency with other LCP programs since the County's proposed language refers to standards in Marin County Code Chapter 7.28, which does not consider potential impacts on nearby wells, biological resources, and water for agricultural production or other priority land uses. According to the Commission, "Marin County Code Section 7.28 is insufficient to carry out" policy C-PFS-4.

### **Coastal Commission May 9, 2017 Letter**

Commission staff state the County's position distinguishing individual water wells and on-site wastewater facilities from public services is "not consistent with the Commission's action." The letter further states "Commission staff support the County's desire to work together to work together on a future LCP amendment package."

### **For Discussion**

Accept modification with intent to consider future submittal of revisions aimed at reducing time and cost for applicants, although it is unlikely Commission staff will agree to remove or revise in favor of County's concerns.

Determine how frequent this situation may arise. For example, how Responsibility for compliance will be applicant's.

Examples of reports have been requested by CDA staff to gauge scope and potential cost.

## **7.7 Section 22.64.170 - Parks, Recreation, and Visitor Serving Uses**

**Issue:** As modified by Coastal Commission staff, Section 22.64.170 (and footnote (3) in Tables 5-3-c, 5-3-d, 5-3-e, and 5-3-f) designates commercial uses as principally permitted throughout the C-VCR zoning district, while residential uses are restricted to the second floor and ground floor (if not on the road facing side) in the commercial core area. The commercial core area has not been delineated. Residential uses would now be restricted to either the upper floors, and/or the lower floors if not on the road-facing side of the property. This means existing residential uses in the commercial core would become legal, non-conforming and would be required to make the finding that the residential use maintains and/or enhances the established character of the commercial core areas for any development not considered repair and maintenance.

### **Section 22.64.170 (3)**

- 3. Mixed uses in coastal village commercial/residential zones.** A mixture of residential and commercial uses shall be permitted in the C-VCR zoning district as follows:

Continue to permit a mixture of residential and commercial uses in the C-VCR zoning district to maintain the established character of village commercial areas. Commercial shall be the principal permitted use ~~within the mapped village commercial core area~~ of the C-VCR zone and residential shall ~~be allowed in the C-VCR zone subject to all other LCP standards. the principal permitted uses in all other parts of the C\_VCR zone in the village commercial core area;~~ Residential uses shall be limited to: (a) the upper floors,

and/or (b) the lower floors if not located on the road-facing side of the property within the commercial core area (i.e. the central portion of each village that is predominantly commercial). Residential uses on the ground floor of a new or existing structure of the road-facing side of the property shall only be allowed subject to a finding provided that the development maintains and/or enhances the established character of village commercial core areas. ~~Replacement, m~~Maintenance and repair of any legal existing residential use shall be exempt from the above provision and shall be permitted.

### Table 5-3, footnote (3)

(3) ~~Commercial shall be the~~ Principal Permitted use within the mapped village commercial core area of the C-VCR zone ~~and residential shall be Principal Permitted use in all other parts of the C-VCR zone~~commercial. ~~In the village commercial core are,~~ Residential shall be limited to: (a) upper floors, and/or (b) the lower floors if not located on the road-facing side of the property property within the commercial core area (i.e. the central portion of each village that is predominantly commercial). Residential uses on the ground floor of a new or existing structure of the road-facing side of the property shall only be allowed subject to a use permit where a finding can be made provided that the development maintains and/or enhances the established character of village commercial core areas. Existing legally established residential uses in the C-VCR zone on the ground floor and road-facing side of the property can be maintained.

The ~~replacement,~~ maintenance and repair of any legal existing residential use shall be exempt from the above provision and shall be permitted.

## Background

Section 22.64.170 and Table 5-3 implement policy C-PK-3. Since the issues and background information with this item are like those discussed in policy C-PK-3 above (refer to Item 1.2 in Amendment #1), the information is not repeated and is instead presented in summary. To summarize, Commission Modifications to Section 22.64.137(3):

- Restricts new residential uses to the second floor and ground floor (not on road facing side of property) in the “commercial core...central portion,” which is not delineated.
- Applies requirements to the “road facing side,” presumably meaning any road, whereas the County intended the standards to apply along Highway One.
- It is unclear whether the restriction of new or **existing** residential uses to the second floor and ground floor applies throughout the VCR zones.

Other nuances should be further evaluated. For example, C-PK-3 requires “Existing legally established residential uses in the C-VCR zone on the ground floor and road-facing side of the property can be maintained,” while 22.64.170(3) states “Maintenance and repair of any legal existing residential use shall be exempt from the above provision and shall be permitted.”

## CCC Findings

According to the Commission findings, defining the village core commercial area as the central portion of each village that is predominantly commercial is consistent with Section 30222 of the Coastal Act because it clarifies which private lands are suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation.

Commission modifications to IP Section 22.64.170 (3) and Table 5-3, including footnote (3), prioritize visitor-serving development in the C-VCR zoning district, which require commercial uses are the “Principal Permitted” regardless of whether the location is within village commercial core area or not. These modifications are consistent with similar modifications in C-PK-3 and Coastal Act Section 30603(a)(4), which states that development not designated in a zoning district as *the* principally permitted use is appealable to the Commission. The findings state that until the County rezones the commercial core area to allow for one principally permitted use within the commercial core (commercial) and outside the commercial core (residential), the Commission staff’s suggested modifications establish commercial use in the C-VCR as the principally permitted use for purposes of appealability and includes a description of the village core for the purposes of policy implementation of the residential limitations in the village core area in the interim. While new residential uses will be appealable throughout the C-VCR district until the maps are adopted and rezoning occurs, these proposed new uses are still permitted and, if existing, the residential use would be allowed to be maintained, repaired, and remodeled regardless of their location

Regarding concerns on the impact to existing residences, the findings state “existing legal residences are allowed to continue in these areas without any further requirements. Going forward, the policy would allow residential uses located on the upper floors, or on the ground floor of a new or existing structure not fronting the street in the commercial area, as a permitted use. However, if a new residential use is proposed on the ground floor of a road-facing property, a finding would be required to ensure that the residential use maintains and/or enhances the established character of village commercial areas. Residential and Affordable housing would continue to be a permitted use in the C-VCR zoning district, as well as within the proposed village commercial core area.”

### **Coastal Commission May 9, 2017 Letter**

As previously discussed in Amendment 1 regarding item 1.2 C-PK-3 Mixed Uses in Coastal Village Commercial/Residential Zone, Commission staff agree the intent is to govern the commercial core of the villages, which does not necessarily include all areas designated C-VCR, it is appropriate to limit the required finding that ground-floor residential uses enhance the established character of the village commercial core areas to development within the village commercial core.” In addition, “as conditionally certified by the Commission, the restriction to residential development in C-PK-3 will apply to the village core commercial areas defined as “the central portion of each village that is predominantly commercial” not the entire C-VCR zoning district...”

Commission staff also support the County’s approach to work together on a future LCP amendment package with maps defining the commercial core areas to implement the policy.

### **For Discussion**

Accept Modifications and express intent to Initiate a public process to work with residents in each village to achieve approval of maps of the commercial core area, establish a corresponding overlay zone and complete required rezoning as a future LCP Amendment. Until such future amendment is approved by the Coastal Commission, residential uses will remain a permitted use throughout the entire C-VCR zone.

Clarify with Commission staff the applicability of the policy.

