COASTAL DEVELOPMENT APPROVAL PROCESS IN DETAIL

1.1 What is the local coastal program?

The law known as the California Coastal Act of 1976 requires each coastal city and county to prepare a local coastal program that establishes the kind, location, and intensity of land and water uses appropriate to its portion of the coastal zone. A local coastal program, or LCP, consists of a local government's land use plan and land use map, zoning ordinance and zoning district maps, and other implementing measures that carry out the LCP's purpose.

The Calif. Coastal Act of 1976 is part of the state's Public Resources Code, beginning at section 30000

The two primary components of the LCP are the land use plan, or LUP, and the zoning/implementation plan, or IP. The LUP contains a set of written policies that provide direction for decision-makers, property owners, and the public regarding the types and intensities of land uses that are most suited to each coastal area. The LUP also includes a land use map that shows generally the uses that are appropriate in each area, maps of sensitive biological resources, and maps of other coastal resources, as appropriate, such as coastal public accessways. Some cities and counties have opted to divide their coastal area for planning purposes into more than one geographic "segment"; Marin County's original local coastal program included two LUPs, one for the southern part of the coastal zone ("Unit 1") and one for the northern part ("Unit 2").

The zoning/implementation plan, or IP, includes the relevant portions of the local government's zoning code, which regulates land uses and establishes appropriate height, bulk, and setback requirements for structures, as well as specific standards which carry out land use plan policies. The IP also contains zoning maps that show which zoning rules apply to each lot. In addition, the IP contains procedural requirements that govern which types of projects require a Coastal Permit, how a Coastal Permit can be obtained, and the opportunities for public participation in Coastal Permit review.

Interim Chapters 22.56 and 22.57 of Title 22 of the Marin County Code are the primary components of the existing LCP zoning/IP; Article V of the Marin County Development Code is the primary component of the updated zoning/IP

A third document related to the local coastal program is a set of procedural documents intended to assist property owners and the public in understanding the day-to-day application of the LCP. These procedures, called here the "administrative manual," include Coastal Permit application forms, the "categorical exclusion orders" that define certain types of projects that are exempt from Coastal Permits, and a chart that summarizes Coastal Permit requirements and exemptions. The administrative manual is not, in itself, a part of the LCP, although it reflects LCP requirements.

When reviewing a local coastal program submittal, the Coastal Commission votes separately on the two components of the LCP, first on the LUP, and then on the IP. The Coastal Commission staff prepares a written recommendation on each component of the LCP for review by the Commission, the County, and members of the public. Under the Coastal Act, in order to certify the local coastal program the Coastal Commission must determine (1) that the land use plan conforms with the requirements of Chapter 3 of the Coastal Act, and (2) that the zoning and implementation provisions are consistent with, and adequate to carry out, the land use plan policies. In other words, for each land use plan policy, there must be zoning or other implementing measures that reflect that policy and ensure that it will be applied to coastal projects. The overall intent of the LCP structure is that Coastal Permit decisions, and more specifically the land development and other projects that they authorize, will reflect the goals and objectives of the local coastal program. Once approved, the local coastal program (including LUP and IP components) remains unchanged, unless and until the County adopts and the Coastal Commission subsequently certifies amendment(s) to it.

Under CEQA, the Secretary of Resources may certify a regulatory program of a state agency as exempt from the preparation of an Environmental Impact Report (EIR) if the agency's program provides sufficient environmental information; see Public Resources Code section 21080.5

Pursuant to the California Environmental Quality Act (CEQA), land use plans and zoning ordinances adopted by counties and cities are typically accompanied by environmental review documents, such as an Environmental Impact Report (EIR). Local coastal programs are also subject to CEQA but environmental documentation takes place in a different manner. The California Secretary for Resources has determined that the Coastal Commission's process of reviewing and adopting local coastal programs itself provides the consideration of environmental impacts, project alternatives, and mitigation measures required by CEQA, and is legally the "functional equivalent" of the documentation provided in an EIR or negative declaration. For instance, the Coastal Commission's published reports and findings supporting its action on a local coastal program must contain a discussion of environmental impacts, project alternatives, and suitable mitigation measures, as appropriate. The County's LCP update process has addressed CEQA requirements in a way that supports the "functional equivalency" provision, and therefore a separate environmental review document has not been prepared for the local coastal program.

Chapter 3 of the Coastal Act begins at Public Resources Code section 30200

Local coastal program policies, in turn, are intended to reflect and carry out the coastal resource protection provisions of the Coastal Act of 1976. Those policies are contained in Chapter 3 of the Coastal Act. Among the Chapter 3 policies are those that encourage the provision of public access to and along the shoreline; the LCP is required to have an identifiable "public access component" in order to address existing and proposed opportunities for the public to get to the shore.

1.2 What is the coastal zone?

The "coastal zone" is the geographic area to which the policies of the Coastal Act apply. The coastal zone is defined by the Coastal Act of 1976 and is shown on a set of maps prepared by the California Coastal Commission. In Marin County, the coastal zone extends the length of the County, a distance of some 70 miles, from the Sonoma County line to near Point Bonita, west of the Golden Gate Bridge. The coastal zone extends seaward a distance of three miles, which is the extent of California's state waters. The coastal zone extends landward a variable distance, depending on topography. Because the coastal zone is defined by law, changes to it can be made only by the Legislature (except for certain specified minor changes, such as to avoid bisecting a lot, that the Coastal Commission may approve).

California's coastal zone is defined by Public Resources Code section 30103. In Marin County, the coastal zone is similar to, but not the same as, the coastal corridor designated by the Countywide Plan

In the vicinity of the Estero Americano and Estero de San Antonio, in the northwest part of the County, the coastal zone extends up to 5 miles inland. The coastal zone also includes both sides of Tomales Bay, the perimeter of the Point Reyes Peninsula, and the shoreline south to a point outside the Golden Gate. The coastal zone does not include the portions of Marin County that adjoin San Francisco Bay. Within Marin County's coastal zone are the communities of Dillon Beach, Oceana Marin, Tomales, Marshall, Point Reyes Station, Inverness, Olema, Bolinas, Stinson Beach, and Muir Beach.

For regulatory purposes, federal lands, such as those within the Point Reyes National Seashore and the Golden Gate National Recreation Area, are not technically within the coastal zone. Land use decisions on federal lands are generally subject to a type of Coastal Commission jurisdiction known as "federal consistency review." The Coastal Commission has the authority, under federal laws and rules, to determine whether certain federal actions are consistent with California's federally recognized coastal management program. The policies of the certified local coastal program provide guidance to the Coastal Commission in making federal consistency decisions.

1.3 What is a "Coastal Permit"?

After Marin County's local coastal program was initially approved by the Coastal Commission, a process known as "certification", in 1980/81, the County took on responsibility for reviewing and issuing Coastal Permits for development within its jurisdiction area. Coastal Permits are required for activities defined as "development" by the Coastal Act, unless

"Development" is defined in the Coastal Act by Public Resources Code section 30106.

See the "flow charts" that follow this discussion for an illustration of the Coastal Permit review process.

otherwise exempted. While the County reviews Coastal Permit applications for proposed development in most areas of the coastal zone, the Coastal Commission retains permanent jurisdiction (also known as "original jurisdiction") even after LCP certification over developments on tidelands, submerged lands, and public trust lands. For example, the Coastal Commission reviews Coastal Permit applications for construction of mariculture facilities located in Tomales Bay, using the LCP's mariculture policies for guidance.

The Coastal Commission also exercises appeal jurisdiction over certain Coastal Permit applications reviewed by Marin County. There are two kinds of "appealable" development projects. One kind consists of projects located within a geographic appeals area defined by the Coastal Act (generally, that area located between the Pacific Ocean, including Tomales Bay, and the first public road paralleling the ocean, in addition to areas near streams and wetlands). Some of these geographic appeals areas are shown on maps adopted by the Coastal Commission. (*Note: Not all geographic areas are, or can be, reflected on maps.*) The second kind of appealable development consists of projects, regardless of location, that are not listed in the County's certified coastal zoning code as the "principal permitted use" within the applicable zone district. Thirdly, major public works and major energy facilities are appealable to the Coastal Commission.

See Public Resources Code section 30603 regarding appeals to the Coastal Commission.

In most cases only those projects that have been approved, rather than denied, by the County can be appealed to the Coastal Commission. Furthermore, the Coastal Commission requires generally that all appealable developments be afforded a public hearing by the County decision maker(s), or at least the opportunity for a public hearing, if requested by an interested party. In general, the Coastal Commission requires that all opportunities for local appeal be "exhausted" (that is, taken through all available levels), prior to the filing of an appeal with the Coastal Commission. However, if the County charges an appeals fee, then a prospective appellant may file an appeal directly with the Coastal Commission (which charges no appeals fee, unless the appeal is determined to be "frivolous").

Relatively few Coastal Permits have been appealed to the California Coastal Commission; records of some 2,100 Coastal Permits acted on by Marin County from 1982 to 2009 show fewer than 10 appeals to the Coastal Commission

When the Coastal Commission considers an appeal of a Coastal Permit decision made by the County, the Local Coastal Program provides the "standard of review" against which the proposed development is considered. The Marin County LCP thus forms the basis for both the County's initial decision on the project and, should the project be appealed to the Coastal Commission, for any subsequent decision the Coastal Commission might make on the project. Furthermore, to approve a development on a site located between the sea and the nearest public road, the County (or the Coastal Commission, if the project has been appealed

to that body) must make an additional specific finding that the project is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

The Coastal Act offers the option of "consolidated review" for any single project that requires both a Coastal Permit from Marin County and a Coastal Permit from the Coastal Commission. Such a case can arise for a project site located near the shoreline, for instance, where part of the project is in the Coastal Commission's "original jurisdiction" area, while the remainder is in the County's jurisdiction area. If the applicant, the County, and the Coastal Commission (through its executive director) agree, then the Coastal Commission may process and act upon a consolidated coastal development permit. Doing so would result in an applicant needing only one, rather than two separate, Coastal Permits. The standard of review for a consolidated Coastal Permit is Chapter 3 of the Coastal Act, with the Local Coastal Program used as guidance.

See Public Resources Code section 30601.3 for more on "consolidated permit" review.

1.4 Brief History of the Marin County Local Coastal Program

Marin County's local coastal program (LCP) took effect on May 13, 1982. The County elected to prepare the LCP land use plan in two geographic parts. The Board of Supervisors approved the plan for the southern portion of the coastal zone, known as Unit 1, on August 21, 1979. Unit 2, the plan for the northern part of the coastal zone (including agriculture policies for all of the County's coastal zone), was approved by the Board of Supervisors on December 9, 1980. Following completion of the Unit 1 and Unit 2 plans and their approval by the Coastal Commission, the County prepared zoning and implementing provisions for its entire coastal zone area. Upon final approval by the Coastal Commission, the County took over responsibility for reviewing coastal permits.

The Marin County LCP, which took effect in 1982, included the Unit 1 and Unit 2 land use plans, along with Chapters 22.56 and 22.57 of the Marin County Code and applicable zone district maps

a) Local Coastal Program Amendments

Some fifteen amendments to the original LCP were adopted between 1982 and 2008. These amendments include some of very limited scope, such as those that simply modified the potentially allowable use of a particular lot, as well as others with broader effects, changing land use policies throughout the County's coastal zone or incorporating certain community plans into the LCP.

b) Categorical Exclusion Orders

In addition to "certifying" the LCP in 1982, the Coastal Commission approved three related documents known as "categorical exclusion orders." These documents are mechanisms by which the Coastal

"Categorical exclusion orders" are authorized by the Calif. Coastal Act; see Public Resources Code section 30610(e). Preparation and approval of categorical exclusion orders is optional under the Coastal Act, not required

Commission has "excluded" certain categories of development, in specified locations, from the requirement to obtain a Coastal Permit that would otherwise apply. Marin County's categorical exclusion orders (#E-81-2, E-81-6, and E-82-6) cover certain agriculturally-related developments, lot line adjustments, signs, single-family residences within specified and mapped portions of Dillon Beach, Oceana Marin, Tomales, Point Reyes Station, and Olema, and certain additions to single-family residences. For instance, in many cases, an addition to a single-family residence of less than 50 percent of the floor area of the dwelling before the addition, or 1,000 square feet, whichever is less, is excluded from a Coastal Permit. The exclusion of these developments from the Coastal Permit requirement resulted from a determination by the Coastal Commission that the specified developments would have no potential for significant adverse effects, either individually or cumulatively, on coastal resources.

The categorical exclusion orders that apply to Marin County are separate from the LCP. These orders were adopted by the Coastal Commission under a different type of review (including environmental review) than the LCP itself. For instance, preparation of the LCP is subject to the "functional equivalency" provisions of the California Environmental Quality Act (CEQA) and accompanying regulations, which provide that the Coastal Commission's process of review and approval satisfies environmental review requirements, without preparation of a separate Environmental Impact Report (EIR). By contrast, preparation of a categorical exclusion order is not subject to the "functional equivalency" provision, and therefore must be accompanied by an Environmental Impact Report or negative declaration, as appropriate. Although the provisions of the LCP have been updated through amendments, no change has been made to the categorical exclusion orders. They continue to apply to the specified types of development, just as they did in 1981 and 1982 when approved by the Coastal Commission. For ease of administration, the categorical exclusion orders have been referenced in the LCP, including in the "administrative manual."

Public Resources Code section 30213, as amended, addresses "lower cost visitor and recreational facilities" but not housing facilities; Public Resources Code section 30007 provides that nothing in the Coastal Act exempts local governments from meeting other housing requirements

c) Affordable housing provisions

As originally adopted in 1976, the Coastal Act contained a policy providing that housing opportunities for persons of low and moderate income shall be protected, encouraged, and where feasible, provided. The original Marin County LCP, which was prepared while that policy was in effect, contains related provisions (for instance, see pages 56 and 66 in the Unit 1 land use plan. Later, the Coastal Act was amended by the Legislature to remove the requirement regarding housing opportunities in the coastal zone for persons of low and moderate income, while at the same time providing that nothing in the Coastal Act "shall exempt local

governments from meeting the requirements of state and federal law with respect to providing low- and moderate-income housing,…" In other words, the Coastal Act does not contain housing policies that are specific to the coastal zone; instead, coastal cities and counties, along with other jurisdictions, must comply with applicable housing requirements. (See section 1.5, part (g) below for more on LCP housing provisions.)

d) LCP update process: 2008–2011 (and beyond)

The Planning Commission and staff of the Community Development Agency re-initiated efforts to revise the County's LCP in the early 2000s. The purpose of this revision has been to gather comments from residents of the County's coastal communities, members of the public, and Coastal Commission staff regarding the existing Unit 1 and Unit 2 LCPs. The LCP revision process has also provided an opportunity to see how changed conditions since 1982 might be addressed by the plan. Those who have commented on the LCP revision have noted that, in many respects, the LCP originally certified by the Coastal Commission in 1982 has served the County and its coastal resources very well. Amendments to the LCP that are reflected in this document, therefore, are intended to be primarily incremental in nature, while maintaining the plan's strong emphasis on protecting Marin County's outstanding coastal resources, agricultural activities, the natural environment, distinctive communities, and opportunities for public recreation.

Several public workshops were conducted by the Planning Commission during 2009 and 2010. Each workshop has focused on one or more LCP topics, such as community development, water quality, and environmental hazards. Direction provided by the Planning Commission as a result of these workshops has led to creation of the draft Land Use Plan (LUP) and Zoning/Implementing Program (IP), which will undergo additional public review and action by the Planning Commission and Board of Supervisors. Ultimately, the updated LCP will be submitted to the Coastal Commission for review and approval.

One goal of the LCP update is to smooth implementation by creating a single LUP in place of the separate Unit 1 and Unit 2 documents. All of the topics addressed by Units 1 and 2 are covered in the updated LCP, but are organized into groups reflecting the Elements of the Countywide Plan, adopted in 2007. Portions of the Marin County Development Code serve as the primary implementing mechanisms for the revised LCP. Because Coastal Act requirements are in some cases different from those that apply to the Countywide Plan, LCP provisions that apply to wetlands and streams, for instance, reflect some differences from Countywide Plan policies. In the coastal zone, development must meet the requirements of the LCP.

The amended Marin County Local Coastal Program consists of:

1. The land use plan (text, land use map, and resource maps)
2. Implementing Program/Zoning (Development Code provisions and zone district maps)

1.5 How does the Marin County local coastal program guide development?

The definition of "development" is contained in Public Resources Code section 30106

The concept of "development" is a key element in the way that the local coastal program is used to guide permit decisions regarding proposed projects in the coastal zone. "Development," as defined in the Coastal Act, is a broadly inclusive term, encompassing not only construction of residences, commercial projects, and other buildings, but also changes in the nature or intensity of use of land or existing buildings, as well as land divisions and certain other activities. Developments undertaken by public entities, including the County and community service/utility districts, as well as by state agencies such as Caltrans and California State Parks, are generally subject to Coastal Permit requirements.[1]

See Public Resources Code section 30610 for the authority for exclusions and exemptions from Coastal Permit requirements; see also section 30600(e) for additional Coastal Permit exemptions that apply to certain highway and public works projects

Although many construction and other projects constitute "development," the Coastal Act also provides authority for certain exemptions and exclusions from Coastal Permit requirements. For instance, the definition of "development" specifically excludes the harvesting of agricultural crops from any requirement to obtain a Coastal Permit. The Coastal Act and accompanying regulations provide that certain repair and maintenance projects and other improvements to existing structures, including single-family residences, are exempt from Coastal Permit requirements. Furthermore, certain emergency response activities, including those undertaken by a public agency to keep a road open following a landslide or other disaster, are exempt from ordinary Coastal Permit requirements. If not exempt or excluded in one way or another, "development" requires approval of a Coastal Permit.

[1] "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. *(Public Resources Code section 30106)*

Replacement of a structure, other than a public works facility, that is destroyed by a disaster is exempt from a Coastal Permit in many cases. The criteria for the Coastal Permit exemption are stated in the Coastal Act, and they provide generally that, to be exempt, a replacement structure must be constructed for the same use as the destroyed structure, be in the same location, and be approximately the same size. A replacement structure that would not meet the specified criteria may also be proposed, such as a replacement structure to be re-sited to a different place on the property, but the project then would be subject to the regular Coastal Permit process rather than an exemption. In any event, other County requirements, such as for a building permit, remain in effect regardless of the Coastal Permit exemption.

Public Resources Code section 30610(g) addresses replacement of structures destroyed by a disaster; "disaster" is defined as "any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner"

Yet another exemption from the requirement to obtain a Coastal Permit for development applies to projects identified by the Coastal Commission in what are known as "categorical exclusion orders." (See Section 1.4.b above)

a) Coastal Permit Review. The Community Development Agency (CDA) is responsible for the review of Coastal Permit applications for proposed developments within Marin County's jurisdiction area. (As noted in section 1.3 above, the Coastal Commission is responsible for the review of developments on tidelands and other areas within its permanent jurisdiction area.) Activities that require a Coastal Permit often require one or more other types of zoning or development approval from the Community Development Agency under the Development Code or other County codes. If more than one type of permit is required, the permits are ordinarily processed simultaneously.

When a building project or other activity is brought to the attention of the Community Development Agency, questions that must be addressed include: is the project site within the coastal zone (see section 1.2 above)? If so, is the project site within the County's, or the Coastal Commission's, Coastal Permit jurisdiction area? Does the activity constitute a "development"? If so, is the activity exempt by law, regulation, or otherwise from the requirement of obtaining a Coastal Permit? For instance, is the activity addressed by a Categorical Exclusion Order?

An additional question must be answered in order to process a Coastal Permit application: is the project potentially appealable to the Coastal Commission (see section 1.3 above)? As noted above, if the project is appealable to the Coastal Commission, then the application must be scheduled for a public hearing, or in some cases the opportunity for a public hearing must be offered, if requested by an interested party.

The Coastal Act's Coastal Permit requirements for additions to existing single-family residences are addressed by Public Resources Code section 30610(a), and accompanying Coastal Commission regulations are at section 13250 (Title 14, Division 5.5).

"De minimis permit waivers" are addressed by Public Resources Code section 30624.7 and the Coastal Commission's regulations at section 13238 (Title 14, Division 5.5).

The answers to the questions listed above depend upon the nature of the proposed activity, as well as upon its precise location. For instance, a proposed improvement to an existing single-family residence, such as an expanded kitchen, is exempt from a Coastal Permit in most locations, but not if the site is within 50 feet of the edge of a coastal bluff. To be exempt from a Coastal Permit under a Categorical Exclusion Order, both the nature and the location of the proposed project must qualify under the terms of the order (developments of any type located on parcels adjacent to a beach or to the sea, for instance, are not categorically excluded).

If an activity is determined to require a Coastal Permit, then the applicant must submit a Coastal Permit application. The application may be processed in one of several different ways, depending on the nature and location of the project. A simple project that can be determined to have no impacts, or only minimal impacts, upon coastal resources or public access to the coast may be granted a "de minimis waiver." A de minimis waiver is a type of Coastal Permit to which no conditions of approval are attached; the project is simply approved, as is, by staff of the Community Development Agency. *[Note that the de minimis waiver procedure was not part of Marin County's original 1982 local coastal program. Instead, the de minimis waiver procedure is a "streamlining" measure that is anticipated to be included in the draft updated LCP.]*

If conditions of approval are appropriate (and therefore the proposed project does not qualify for a de minimis waiver), then a Coastal Permit is required. A Coastal Permit may, in some cases, be approved administratively, without a public hearing, by the Director of the Community Development Agency. Because no local public hearing is held, an administrative permit is suitable only for a project which is not potentially appealable to the Coastal Commission, because the Coastal Commission requires that a project appealed to that body should first have been afforded a public hearing before the County decision-maker(s).

If a public hearing is required, such as for an appealable project, then the hearing is scheduled in order to allow input from members of the community and the general public prior to a decision on the application. Public hearings on Coastal Permit applications are held by the Deputy Zoning Administrator, whose permit decisions are appealable first to the Planning Commission and subsequently to the Board of Supervisors. Public hearings can also be held by the Planning Commission with the decisions appealable to the Board of Supervisors.

A streamlining measure that was not available in 1982 when the County's original local coastal program was approved applies to proposed development that, although appealable to the Coastal Commission, is defined by the Coastal Act as a "minor development." A "minor

development" is one that the County determines is consistent with the local coastal program, requires no discretionary approvals other than a Coastal Permit, and would have no adverse effects on coastal resources or public access to the coast. A Coastal Project that would meet that definition but would require a public hearing because it could be appealed to the Coastal Commission can be processed expeditiously through use of a "public hearing waiver." In such a case, public notice is provided to neighboring property owners and others who may have an interest in the project, alerting them that a public hearing will be scheduled only if requested by one of them. Notice of the potential "public hearing waiver" must be provided to all the same persons that would be notified if a public hearing were actually scheduled. If no one requests a public hearing, then the hearing requirement is simply waived, and the Community Development Agency proceeds to take action on the Coastal Permit application.

Coastal Permit decisions are made by the County only after the permit application is determined to be complete and the appropriate type of Coastal Permit action is selected, as described above. The Zoning/Development Application Submittal Guide provided by the Community Development Agency explains the submittal requirements for various types of permits, including Coastal Permits. The submittal requirements typically include plans and other materials that explain the proposed project; other submittal requirements reflect specific policies of the local coastal program, such as the need in some cases for the County to obtain a biological survey paid for by the applicant to document sensitive biological resources that could be affected by a project.

A Coastal Permit decision is supported by a completed application, project plans, and other file materials, as well as (except in the case of a de minimis waiver) a written staff report that describes the proposed project and its relationship to applicable LCP provisions. A decision on the Coastal Permit application, which follows the conclusion of the public hearing, if held, includes "findings" that explain how the proposed project does or does not comply with LCP provisions. Those provisions include both applicable policies of the land use plan and provisions of the appropriate sections of the County Code that have been approved as part of the LCP. Coastal Permit findings address only LCP requirements; the relationship of a proposed project to the Countywide Plan, community plans that are not incorporated in the LCP, or other plans is documented elsewhere. If necessary to ensure that a proposed project will be consistent during and after construction with LCP requirements, conditions of approval may be adopted.

Decisions of the Deputy Zoning Administrator may be appealed to the Planning Commission and the Board of Supervisors. Furthermore, as

described above, certain Coastal Permit decisions may be appealed to the California Coastal Commission.

"Emergency" means: "a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services." (section 13329, Coastal Commission regulations)

b) Emergency Coastal Permits. The Coastal Act provides for two kinds of response to an emergency. First, when there is insufficient time to issue a regular or administrative Coastal Permit for a development required to respond to an emergency, the Community Development Agency Director or designated official may grant an emergency permit upon reasonable terms and conditions. For instance, where storm-related erosion threatens a structure with collapse, a property owner might seek an emergency permit to strengthen the building's foundation. Ordinarily, an emergency permit of this type includes an expiration date and a requirement that a "follow-up" Coastal Permit be obtained, in order to authorize development on a permanent basis. The follow-up Coastal Permit is subject to requirements for public notice, a public hearing if required, and other procedures that are ordinarily followed for non-emergency Coastal Permits.

Emergency permits are authorized by Public Resources Code section 30624; the "emergency permit waiver" is authorized by Public Resources Code section 30611.

A second type of emergency response applies only to the provision of public services. When immediate action by a person or public agency performing a public service is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services, or in other cases of emergency, the requirement of obtaining a Coastal Permit may be waived upon notification of the Executive Director of the Coastal Commission. This type of emergency response does not authorize the permanent erection of major structures.

c) "Non-coastal" development permits. The Development Code, Title 22 of the Marin County Code, provides requirements for the development and use of private and public land, buildings, and structures within Marin County. Additional requirements affecting development and the use of property are contained in other sections of the Marin County Code, such as Title 23 (Natural Resources) and Title 24 (Development Standards). These provisions protect the health and welfare of Marin County residents and the general public and are based on laws and regulations other than the California Coastal Act of 1976, which authorizes the issuance of Coastal Permits. Although a Coastal Permit and other County permits needed for a particular project are generally processed at the same time, the permits are distinct. The standards applied to the permits are different, review procedures are different, and appeal procedures are different.

Design Review procedures are contained in Chapter 22.42 of the Development Code (Marin County Code Title 22)

Design Review is a type of County development review that is separate from Coastal Permit review. Plans and proposals for physical improvements are scrutinized as a means of assuring that, for instance, the exterior appearance of a proposed structure, landscaping, parking, and

signs, will be compatible with the design, scale, and context of surrounding properties. Although the objective of Design Review may be similar to the objective of the local coastal program with respect to assuring compatibility of appearance, Design Review is a separate process. The standards applied to the Design Review of a proposed project are those contained in the Countywide Plan and the applicable community plan, whereas the standards applied to the review of a Coastal Permit are those contained in the local coastal program. Moreover, in the event that a County-approved Coastal Permit is appealed to the California Coastal Commission, that body would look only at local coastal program standards in reviewing the appeal, and not the provisions of the Countywide Plan and community plan.

Master Plans, Precise Development Plans, and Use Permits are other examples of County entitlements that are separate from Coastal Permits. Each type of entitlement has its own standards and procedures under the Marin County Code. Each is separate from Coastal Permit requirements.

Under the California Government Code, variances from standards of the Marin County Development Code may be granted due to special circumstances applicable to a property, including size, shape, topography, or surroundings of a lot, when the strict application of the Development Code would deny the property owner privileges enjoyed by other property owners in the vicinity and under an identical zoning district. Coastal Permit Variances provide relief from standards relating to height, floor area ratio, and setbacks. Coastal Permit Variances cannot be granted for relief from LCP policies, use limitations, or minimum lot size and density requirements.

d) Pre-existing development. Existing structures and land uses generally do not require a Coastal Permit to continue in existence. Structures and land uses legally in existence now and that were already in existence before February 1, 1973, when the predecessor statute to the Coastal Act of 1976 took effect, are generally considered to be "grandfathered," and thus do not require Coastal Permit approval to continue in place. However, any person claiming a vested right in a development and who wishes to be exempt from the permit requirements of the Coastal Act must substantiate that claim in a proceeding before the Coastal Commission.

A structure or new land use that came into existence on or after February 1, 1973, on the other hand, should have been authorized by a Coastal Permit, unless specifically exempted, either from the California Coastal Commission or the County of Marin. If no Coastal Permit was ever issued for a development that came into existence on or after February 1, 1973, even if the project was authorized by building permits or other land use

entitlements at the time, then an "after-the-fact" Coastal Permit is ordinarily required or, in some cases, removal of the development. The determination of whether a Coastal Permit is required in any given case depends on the facts of the particular case.

e) Areas of deferred certification. Certain coastal areas located within a county or city jurisdiction area are known as "areas of deferred certification" (ADCs). Such geographic areas are not considered by the Coastal Commission to be part of the final, certified local coastal program, even while surrounded by other areas that are addressed by the LCP. The creation of an ADC results generally from a lack of agreement between the Coastal Commission and a county or city regarding the local coastal program policies or zoning provisions that should apply to a specific geographic area. Certification by the Coastal Commission of the remainder of the LCP jurisdiction area may occur, while the site of the disagreement remains "uncertified."

In Marin County's original local coastal program, there is one ADC, namely the row of lots on the north side of Calle del Arroyo, adjoining Bolinas Lagoon in Stinson Beach. Those lots are considered to be an "area of deferred certification" stemming from the County's approval of the LCP in the early 1980s and disagreement with the Coastal Commission over appropriate zoning designation for those parcels. Consequently, those lots were not considered part of the certified local coastal program, and any proposal to develop them would require Coastal Permit review by the Coastal Commission, rather than the County.

f) Community plans. Community plans are considered part of the Marin Countywide Plan. Community plans supplement the Countywide Plan by providing local goals and objectives that pertain to an individual community. Such plans are typically prepared with substantial input from community members, and they provide more detail and explanation of desired outcomes.

The Dillon Beach Community Plan and the Bolinas Gridded Mesa Plan were certified by the Coastal Commission, via amendments to the Local Coastal Program. Selected policies of the Point Reyes Station Community Plan that relate to development of affordable housing were also certified by the Coastal Commission.

Other Community Plans have been prepared for the coastal communities of Muir Beach, Stinson Beach, Bolinas, Point Reyes Station, Inverness Ridge communities, East Shore communities (Tomales Bay), and Tomales. These govern permits issued under the Countywide Plan, such as Design Reviews and Use Permits. The updated LCP incorporates many Community Plan policies that were identified by members of the

communities as being appropriate to be part of the LCP. The community plans themselves remain as separate documents.

g) Housing provisions. Since the original Marin County local coastal program was prepared, the Legislature has adopted a number of housing laws that apply both within and outside the coastal zone. Nothing in the Coastal Act exempts a local government from meeting such requirements. At the same time, in meeting housing requirements a local government is not exempted from meeting the requirements of the Coastal Act. Therefore, statutory requirements for protection of coastal resources and for the provision of housing must be applied in such a way as to carry out simultaneously several different policy goals. Addressing both Coastal Act and housing law requirements demands an individual approach for each local coastal program, which reflects local conditions, ordinances, and permitting procedures.

Government Code section 65852.2 addresses second residential units; Marin County Code section 22.32.140 reflects the requirements of this law

State law supports second residential units within residential areas. The law provides, with certain exceptions, for streamlined permit processing through the use of "ministerial approval" for second residential units. Marin County has adopted a series of ordinances that address residential second units.

The state second-unit law provides that it does not supersede or lessen the effect of the Coastal Act. Standards for the protection of coastal resources and coastal access therefore are unchanged by the law. The second unit law does, however, affect the procedure that can be used for a Coastal Permit. The law provides that a local government shall not hold a public hearing on a Coastal Permit application for a second residential unit. As noted above, the Coastal Act generally requires that a local government public hearing be held on a Coastal Permit application for a development that could be appealed to the Coastal Commission. To reconcile these different requirements, the local coastal program provides for second residential units in the coastal zone, while requiring at the same time that impacts of development on coastal resources be addressed to the maximum extent feasible through the Coastal Permit process. Requirements for public hearings on Coastal Permits (or for no local government public hearing for a second residential unit) are addressed in the Zoning/Implementation Plan portion of the local coastal program.

Government Code section 65852.2(j) provides that a local government shall not hold a public hearing on a Coastal Permit application for a second unit. Whether or not a County public hearing is held, if the second unit is located in an appealable area, then the Coastal Permit would be appealable to the Coastal Commission.

Other provisions in state law encourage affordable housing by providing for density bonuses and "incentives or concessions" intended to spur the construction of new affordable units. An incentive or concession might mean a reduction in site development standards, a modification of zoning code requirements, or some other measure that would result in cost reduction. Site development standards and other requirements are contained in the local coastal program, and therefore incentives or

Government Code section 65915 addresses density bonuses and incentives or concessions

concessions could have an effect on LCP requirements. At the same time, the affordable housing law states that it shall not be construed to supersede or lessen the effect of the Coastal Act. Consequently, both housing provisions and Coastal Act standards must be addressed and reconciled in the local coastal program. The LCP accomplishes this goal by providing policies that encourage affordable housing and by specifying the procedures by which density bonuses, incentives, or concessions may be applied to development in the coastal zone (such procedures are part of the Zoning/Implementation Plan portion of the LCP).

Marin County Local Coastal Program (LCP)

Chart: When is a Coastal Permit Required?

Part 1: Coastal Permit Required from Marin County
*(To fully analyze a given project, see also **Part 2** and **Part 3**.)*

(Note: This chart reflects permit requirements of the Marin County Local Coastal Program as proposed to be amended, as well as requirements of the Coastal Act and the California Coastal Commission's regulations.)

A C**oastal Permit**[*] is required for "development" as defined by the Coastal Act of 1976.[†] "Development" is defined broadly by the Coastal Act, and it encompasses many construction activities, land and water uses (or changes in use), and subdivisions. "Development" means on land, in or under water:

A. Placement or erection of any solid material or structure ("structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line);
B. Discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste;
C. Grading, removing, dredging, mining or extraction of any materials;
D. Change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code) and any other division of land, including lot splits, except where the land division is brought about in connection with the

[*] The Interim Zoning Ordinance uses the term "coastal project permit" (for instance in Section 22.56.040) whereas the Coastal Act refers to "coastal development permit" (see Public Resources Code Sec. 30101.5)

[†] "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. *(Calif. Public Resources Code Sec. 30106)*

In contrast to the term "development," "new development" has a slightly different definition, according to Public Resources Code Sec. 30212, for purposes of applying the public access policies of the Coastal Act.

Part 1: Coastal Permit Required from Marin County
*(To fully analyze a given project, see also **Part 2** and **Part 3**.)*

purchase of such land by a public agency for public recreational use;
E. Change in the intensity of use of water, or of access thereto;
F. Construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and
G. The removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

Furthermore, a **Coastal Permit** is required for:

H. Demolition of any structure built prior to 1930.
I. Significant alteration of land forms as provided by Sec. 22.68.050.
J. Projects of state and local public agencies not exempted by Section 22.68.050.
K. Wells and borings unless exempt or categorically excluded.
L. Expansion or construction of septic systems.
M. Closure of coastal accessways.
N. Agricultural processing facilities.
O. Any improvement to a structure where the coastal permit issued for the original

Part 1: Coastal Permit Required from Marin County
*(To fully analyze a given project, see also **Part 2** and **Part 3**.)*

structure by the county or coastal commission indicated that any future improvements would require a coastal permit.
P. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or longterm leasehold, including but not limited to a condominium conversion stock cooperative conversion or motel/hotel time-sharing conversion

As a general guide, if a proposed development requires one or more Marin County land use or construction permits, such as a building permit, use permit, or subdivision approval, then a C**oastal Permit** is also required, unless a specific exemption is noted in **Part 2** of this document. Applicable codes contain the permit requirements; this chart is intended only as a guide.

Part 2: Coastal Permit Exempt

The following are exempt from a coastal permit, except as noted:

A. Improvements to existing single-family residences and other structures, including:

All fixtures and other structures, including decks, directly attached to the structure;

Residential accessory uses on the same site as an approved residential use, such as garages, swimming pools, fences, and storage sheds, but not including guest houses or self-contained residential units (as used in this section "guest house" means any accessory structure having a floor area of more than four hundred square feet or any accessory structure which contains plumbing);

Landscaping on the lot;

1) Except a coastal permit is required if the project includes:

a) An improvement to a structure located on a beach; in a wetland, stream, or lake; seaward of the mean high tide line; in an environmentally sensitive habitat area, in an area designated as highly scenic in the LCP land use plan *(Note: as of the date of this document, no areas have been designated by the LCP as "highly scenic")*; or within 50 feet of the edge of a coastal bluff; **or**

b) Any significant alteration of land forms, including removal or placement of vegetation, on a beach or sand dune, in a wetland or stream, or within 100 feet of the edge of a coastal bluff,[‡] or in environmentally sensitive habitat areas; **or**

c) The expansion or construction of water wells or septic systems;

2) And a coastal permit is required if:

Development is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance,

[‡] Note that the Coastal Commission's regulations for improvements to single-family dwellings are slightly different than those for improvements to other structures; in the interest of making this simpler to follow, the requirement have been merged here by using the more restrictive language of the two.

Part 2: Coastal Permit Exempt

and

the improvement would result in:

a) An increase of 10 percent or more of internal floor area of an existing structure or an additional improvement of 10 percent or less where an improvement to the structure had previously been undertaken pursuant to a coastal permit exemption; **or**

b) An increase in height by more than 10 percent of an existing structure; **or**

c) Construction of any significant non-attached structure on a residential lot, such as garages, fences, shoreline protective works, or docks.

B. Repair and maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance.

1) Except a coastal permit is required if:

The object of repair or maintenance is a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work

and

the project includes:

a) Substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures, **or**

b) The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries, **or**

c) The replacement of 20 percent or more of the materials of an existing structure with materials of a different kind, **or**

d) The presence, whether temporary or permanent, of **mechanized construction equipment** (such as a motor-driven back-hoe or tractor, but not including power tools) or the stockpiling or storage of **construction**

Part 2: Coastal Permit Exempt

materials on any sand area, bluff, or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams;

2) And a coastal permit is required if:

The project constitutes any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams

and

the project includes:

a) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials, **or**

b) The presence, whether temporary or permanent, of mechanized equipment (such as a motor-driven back-hoe or tractor, but not including power tools) or the stockpiling or storage of construction materials.

3) And a coastal permit is required if:

The project constitutes any method of routine maintenance dredging that involves:

a) The dredging of 100,000 cubic yards or more within a twelve (12) month period, **or**

b) The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, on any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams, **or**

c) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access, or public recreational use.

Part 2: Coastal Permit Exempt

4) And a coastal permit is required if:

The object of repair or maintenance is a structure built prior to 1930

and

The project is not consistent with the structure's original architectural character.

C. Repair and maintenance of existing public roads, as listed in the "Repair, Maintenance, and Utility Hookup Exclusions from Permit Requirements" adopted by the California Coastal Commission, Sept. 5, 1978 *(see attached)*. In general, maintenance activities are those that are necessary to preserve the road facility as constructed, within the existing right-of-way.

D. Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Calif. Government Code).

E. Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. This paragraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

F. The following developments (a summary only is provided here; see Categorical Exclusion Orders E-81-2, E-81-6, and E-82-6 for a complete list, maps, and a statement of conditions that apply):

1) Agricultural developments, including barns, dairy pollution projects, storage tanks, and others;

Part 2: Coastal Permit Exempt

2) Non-agricultural developments, including on-site signs, certain lot line adjustments, and traffic control signing and minor roadway improvements; 3) Single-family residences on certain lots and land divisions of four parcels or less in Point Reyes Station; 4) Single-family residences in Olema, Old Dillon Beach, Tomales, and Oceana Marin; and 5) Certain minor additions to single-family residences.
G. The replacement of any structure destroyed by a disaster if the replacement structure meets all of the following criteria: 1) Conforms to applicable existing zoning requirements; **and** 2) Is for the same use as the destroyed structure; **and** 3) Does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent; **and** 4) Is sited in the same location on the affected property as the destroyed structure; **Notwithstanding the above, a coastal permit is required for replacement of a public works facility destroyed by a disaster.**
H. Any activity that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11003.5 of the Calif. Business and Professions Code.
I. Maintenance dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone, pursuant to a permit from the US Army Corps of Engineers.
J. Public Utility service connections, operation and maintenance of distribution and transmission facilities, and other activities listed in the "Repair, Maintenance, and Utility Hookup Exclusions from Permit Requirements" adopted by the California Coastal Commission, Sept. 5, 1978. *(See attached)*

Part 2: Coastal Permit Exempt

K. A temporary event which:

1) Would not occupy a sandy beach, or would occupy a sandy beach only in a remote location with minimal demand for public use; **and**

2) Would not involve a charge for general public admission or seating where no fee is currently charged for use of the same area; **and**

3) Would not have the potential for adverse impacts on wetlands, streams and riparian corridors, or other environmentally sensitive habitat areas; **and**

4) Have a duration of one day or less.

Notwithstanding the above, a coastal permit for a temporary event may be required upon a determination by the Director of the Community Development Agency that:

1) The temporary event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time; **or**

2) The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, or significant scenic resources; **or**

3) The event is scheduled between Memorial Day weekend and Labor Day and would restrict public use of roadways or parking areas or otherwise significantly impact public use of coastal waters or access to coastal waters.

L. Nuisance abatement actions by the County that are necessary to protect public health and safety, when such abatement must occur more quickly than could occur if authorized by a coastal permit. If exempt from a coastal permit, a nuisance abatement action shall involve the minimum level of development activity necessary to successfully abate the nuisance.

Part 3: Coastal Permit or Other Authorization Required from the California Coastal Commission

The following categories of "development" require a coastal permit or other authorization from the California Coastal Commission (or other authority), but not from Marin County:

A. Projects in the Coastal Commission's retained jurisdiction, which includes tidelands, submerged lands, or on public trust lands, whether filled or unfilled, lying within the coastal zone (Public Resources Code § 30519(b);

B. Projects within any state university or college *(Note: as of the date of this document, no state university or college is located within Marin County's coastal zone)* (Public Resources Code § 30519);

C. Public works projects subject to a public works plan (Public Resources Code § 30605). *(Note: a public works plan may include, but is not limited to, a project undertaken by the State Parks Department, Caltrans, or another transportation or public recreation agency; as of the date of this document, no public works plan as defined by the Coastal Act has been approved within Marin County's coastal zone)*

D. Projects that involve amending a coastal permit that the Coastal Commission has issued previously;

E. Projects in an area where the Local Coastal Program has not yet been certified. *(Note: in Marin County, one such "area of deferred certification" was created when the LCP was certified by the Coastal Commission on April 1, 1980. That area includes the lots located on the north side of Calle Del Arroyo adjoining Bolinas Lagoon in Stinson Beach. Contact the Coastal Commission for more information.)*

F. Thermal power plants of 50 megawatts or greater along with the transmission lines, fuel supply lines, and related facilities to serve them, which require approval by the California Public Utilities Commission (Coastal Act § 30600(a) referencing Public Resources Code § 25500). *(Note: no such power plants have been proposed in Marin County's coastal zone.)*

G. Federal projects, including but not limited to projects undertaken by the National Park Service or U.S. Army Corps of Engineers;

H. Non-federal projects on federal land, for instance, projects undertaken by leaseholders within the Point Reyes National Seashore.

Part 3: Coastal Permit or Other Authorization Required from the California Coastal Commission

For more information on projects that require Coastal Commission approval, contact:

North Central Coast District
California Coastal Commission
45 Fremont St. Suite 2000
San Francisco, CA 94105
415-904-5260

Chart #1

COASTAL PERMIT JURISDICTION

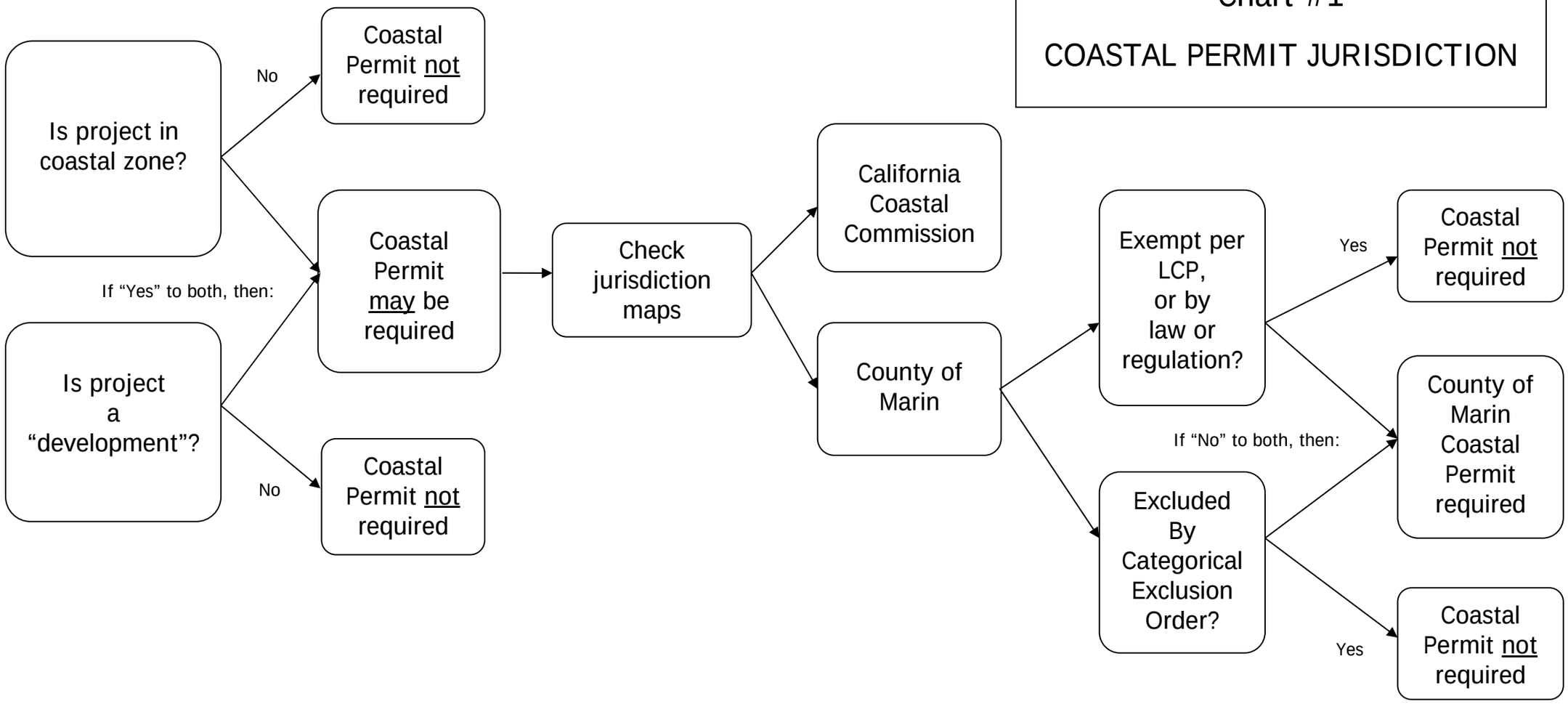
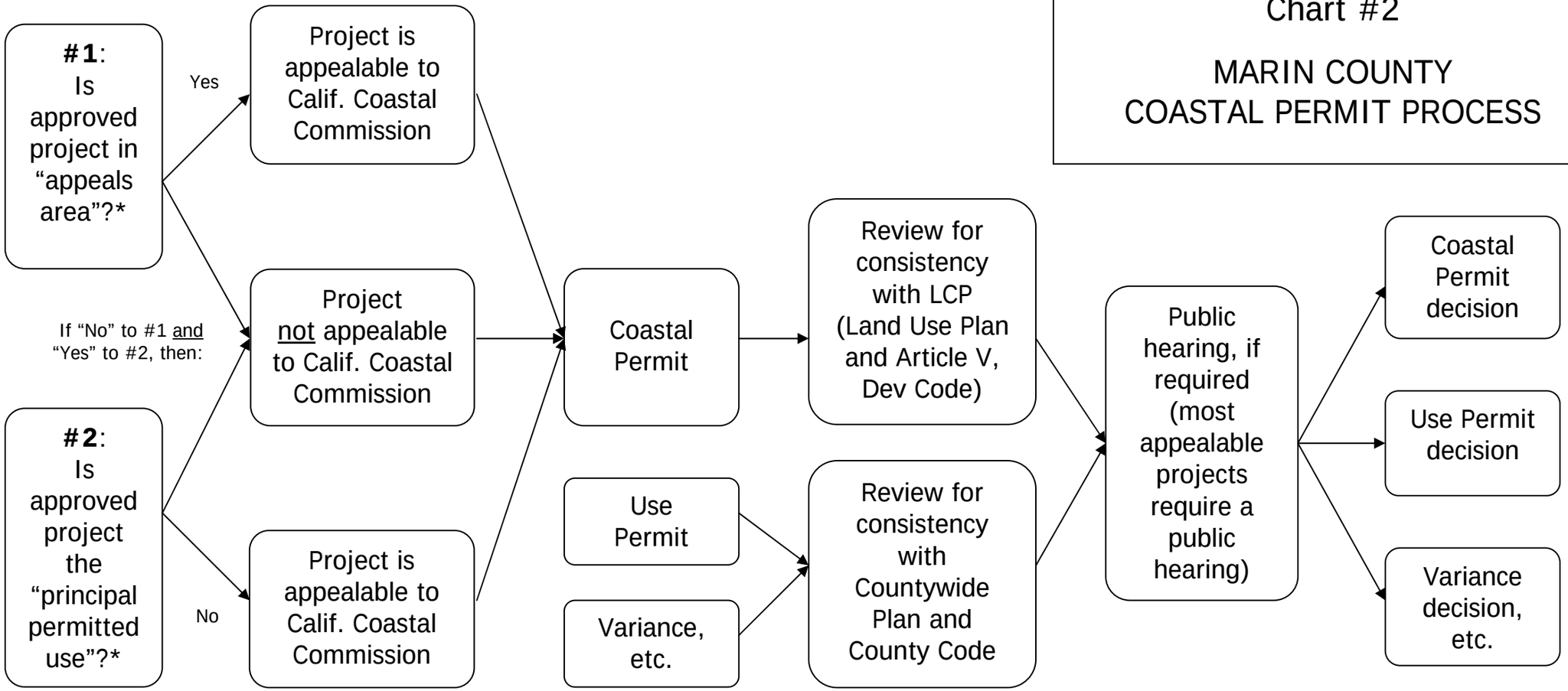


Chart #2

MARIN COUNTY COASTAL PERMIT PROCESS



*Only projects approved by the County are appealable to the Calif. Coastal Commission other than major public works projects and major energy facilities, which are appealable whether approved or denied.