

**Marin County Community Development Agency responses to CCC staff regarding Non-Filing of
2015-2016 Local Coastal Program Amendments**

(For the reader's convenience, the original CCC staff letter with Marin County's response shown below each item follows. The original letters are [CCC Filing Status Letter May 6, 2016](#) and [Marin County Response June 3, 2016](#) respectively.

STATE OF CALIFORNIA—NATURAL RESOURCES AGENCY

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May 6, 2016

Brian Crawford, Director
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3501 Civic Center Drive, Suite 308
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Subject: *Marin County Local Coastal Program Update (LCP-2-MAR-15-0029-1)*

Dear Mr. Crawford:

We received the electronic and hard copy versions of the second package of amendment materials relating to the Marin County Local Coastal Program (LCP) Update on April 22 and April 25, 2016 respectively. As stated in Transmittal Resolution No 2016-33 and your April 22, 2016 transmittal letter to us, this second package of amendment materials is intended to complete the first package of amendment materials relating to the LCP Update that we received on October 8, 2015 and respond to the requests for information made by Commission staff in their status letters.

We previously responded to the October 8, 2015 transmittal with status letters dated October 15, 2015 and October 21, 2015, requesting additional clarification, information and materials. On December 2, 2015, we received the County's response to our status letters, to which we responded with an additional status letter dated December 16, 2015. While most of the information we requested relating to the first package of amendment materials has been provided, there are a few key items still outstanding and included in the list identified below. In addition, this second package of amendment materials raises additional information needs, which also are identified in the list below. In short, the County's LCP update (LCP-2-MAR-15-0029-1) remains unfiled, as we need additional clarification, information and materials regarding the following items:

June 3, 2016 Marin County Response to Nancy Cave, North Central District Manager CCC.

Introduction:

Dear Ms. Cave:

We have received your letter dated May 6, 2016 regarding the second package of amendment materials that were submitted by the County on April 22 and April 25, 2016. We appreciate your thorough review.

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I am certain that Commission staff shares with the County the commitment to achieve prompt certification of the County's LCP amendments. Only at that time, of course, can the County's energies be focused on implementing the updated LCP and its many strengthened provisions. As you know, the updated amendments will enhance the County's agricultural economy, provide improved recognition of climate change and associated impacts, and enhance clarity about policies and requirements for residents, permit applicants, and visitors. In order to continue to move the LCP update process along, it is essential that the proposed amendment packages be filed as complete as promptly as possible, so that Coastal Commission analysis and review can proceed.

Our responses below address the questions raised in your letter. We have also corrected the inadvertent inclusion of an earlier version of Amendment 7. With this letter, the County now believes its submittal is ready for filing and that we can now move forward to a hearing at the Commission's August meeting. As you know, the County's complete LCP Update is comprised of the seven Amendments listed below, which were filed for approval by the Coastal Commission on September 30, 2015 (Amendments 1 through 3) and April 22, 2016 (Amendments 4 through 7) respectively:

Amendment 1: The following Chapters of the LUPA:

Introduction

Interpretation of the Land Use Plan

Biological Resources (BIO)

Mariculture (MAR)

Water Resources (WR)

Community Design (DES)

Community Development (CD)

Energy (EN)

Housing (HS)

Public Facilities and Services (PFS)

Transportation (TR)

Historical & Archaeological Resources (HAR)

Parks, Recreation & Visitor-Serving Uses (PK)

Public Coastal Access (PA)

Local Coastal Program Maps

Amendment 2: The Agriculture Chapter of the LUPA

Amendment 3: Chapters and Sections of the Marin County Development Code comprising a portion of the IPA for the LUPA Agriculture Chapter

Amendment 4: The Environmental Hazards (EH) Chapter of the LUPA

Amendment 5: Chapters and Sections of the Marin County Development Code comprising a portion of the IPA for the LUPA Environmental Hazards Chapter

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Amendment 6: Coastal Permitting and Administration Sections of the IPA (Chapters 22.68 and 22.70)

Amendment 7: All remaining Chapters and Sections of the Marin County Development Code comprising the IPA for the LUPA

We are also providing with this letter a complete copy of the LUP and IP in the format that you requested following the issuance of the May 6, 2016 Commission staff response to the County's filing of April 22, 2016. We understand this information was requested by Commission staff outside of the Commission's filing response and the governing regulations to facilitate your staff's review of the County's proposed amendments.

As a threshold issue, discussed below, some of the requests in your May 6, 2016 letter go beyond the question of the completeness of the County's resubmitted LCP materials, and raise instead questions which relate to the ultimate question of consistency with Chapter 3 policies. Under the Commission's regulations, the key submittals required include: comments from the public and other agencies (which can be summarized) and the County's responses; policies, plans, and related materials that allow review for conformity with the requirements of the Coastal Act; and a readily identifiable public access component. Of course, once the application is accepted for filing and following your staff's review, the Commission determines whether to certify or not. Under Coastal Act Section 30512.2, that is an up or down question – either certify as submitted, or deny and suggest modifications. But, the Commission is not authorized to diminish the ability of the County to establish the precise content of the land use plan, and its role is to require conformance with the requirements of Chapter 3 of the Coastal Act only to the extent necessary to achieve the basic state goals set forth in Coastal Act Section 30001.5. I raise this point because the substantive questions you raise regarding the various LCP Amendments, including how those provisions would protect coastal resources, are not filing questions. Neither the Act nor the regulations contemplate that only LCPs determined to be "approvable" by Commission staff will be filed as complete. So, we have made that point as we respond to your various questions. Although we are pointing out this important distinction between filing requirements and policy issues related to the merits of the proposed amendments, we maintain our continued commitment to help Commission staff complete your analysis in a timely manner.

In addition, you have asked for extensive additional data collection and analysis. However, at this stage, it would not be appropriate for the County to engage in such data collection and analysis. That asks the County to continue the planning process *after* the Board of Supervisors has endorsed Land Use Plan policies and implementing provisions. And, it would send the wrong message to the many members of the public who have participated in numerous workshops and public hearings, acting in good faith on the information that was before them. In any case, the clarifications and information provided below will allow our respective staffs to proceed to the next critical steps in our joint effort to approve important amendments to the County's LCP.

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- 1) Response to Comments.** We acknowledge receipt of a written response to each of the comments in each of the comment letters submitted to the County prior to the Board hearing on August 25, 2015, as well as a written response to Commission staff's letter of August 21, 2015. However, we are still waiting for one complete set of all comment letters relating to the August 25, 2015 Board action, including confirmation of the comments received at the August 25, 2015 hearing (See October 15 and December 16, 2015 status letters.). In addition, thank you for submitting the public comment letters and responses associated with the most recent Board action on April 19, 2016. However, the County's response to our March 23, 2016 letter (County Enclosure 2(a)) only addresses Commission staff comments relating to the second package of amendment materials and omits responses to Commission staff comments relating to the first package of amendment materials. While we understand that your responses address the portions of the LCP Update most recently acted on by the Board on April 19, 2016, we need responses to all of our comments, including as it remains our shared intent to bring the entire LCP forward to the Commission as one integrated proposal. We have spent extensive staff time reviewing preliminary LCP draft documents and discussing these drafts with you and your staff, including our meetings on March 8, 9, and 5, 2016 in order to resolve remaining issues. There has been no indication to what extent our March 23, 2016 written comments and our upfront meetings and coordination have been responded to, and/or any changes made. Please provide responses to all comments contained in our March 23, 2016 letter as previously requested. For ease of review, please provide one complete set of responses to comments in a single document.

Marin County Response:

The County has made every effort to provide Commission staff with all comments received from members of the public and from other agencies, as well as to respond to such comments. Comments made by Coastal Commission staff have also been responded to. Note that responses are, in some cases, provided in summary form, consistent with Section 13519 of the Commission's regulations, and all of your comments have been heard and considered by the County decision-makers. Your letter of May 6, 2016 acknowledges that you have copies in hand of all comment letters that the County received in connection with the April 19, 2016 Board of Supervisors action on the second package of amendments, along with the County's responses to them. Regarding the Board's prior action on the first package of amendments on August 25, 2015, we have uploaded to the Commission's ftp server a full set of comment letters. The packet is entitled "Marin County Letters BOS Hearing 08252015.pdf," and it can be found in the Marin Resubmittal folder. Note also that letters received by the County are regularly posted at www.marinlcp.org.

You have asked for further responses to comments made by Commission staff regarding that first package of amendments. As you know, the Board of Supervisors acted on that package on August 25, 2015, taking into account at that time all comments received, including those submitted by Commission staff. The Board's action on August 25 decided those points of discussion. The Board has not indicated a desire to revisit any of those decisions, and we hope you can understand that it would not be

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appropriate for County staff to respond at this time to policy questions already resolved by the Board in the submittal made to the Commission. The Board's decisions on August 25, 2015 and April 19, 2016 speak for themselves.

Consequently, as noted above, we have reached the point where the submittal is ready to be accepted as complete so the Commission itself can address the County's amendment submittals and make a decision whether or not to certify the LCP changes. Please be assured that County staff is more than willing to respond to any questions about what is contained in the submittals, and that will be evident from the remainder of this letter. But we do not anticipate that such questions or any differences of opinion we may have about how to best carry out Coastal Act policies will hold up the proper filing of the LCP amendment as complete. Indeed, the step of filing the submittal as complete should be straightforward inasmuch as the County has provided comments and summaries of responses, as well as the policies, plans, maps, and implementation provisions that make up the LCP. In sum, with the clarifications and answers to questions as provided below, we believe that prompt filing of the LCP amendment for consideration by the Commission is now appropriate.

- 2) **Maps.** Now that the County has requested to move forward with the entire LCP Update, including the entire Land Use Plan and Implementation Plan, all maps that are intended for use in implementing the LCP must be finalized, adopted by the Board and submitted. As stated in our December 16, 2015 status letter, "we are also going to need all proposed LUP and IP figures and maps, including the agriculturally related figures and zoning maps, before the Update can be deemed complete. We anticipate that these materials are likely to be the last materials submitted as they necessarily depend on the completion of various efforts before they can be created." Such maps include the Environmental Hazards, Categorical Exclusion Areas, Appeal Jurisdiction, Zoning, and Village Core Commercial maps currently stamped "DRAFT," as well as all other proposed LCP maps. Please identify the ways the maps have changed and please eliminate any 'draft' references on the maps as the maps you submit need to be the County's proposed final maps, and can no longer be a preliminary or draft version of same for information purposes only. Please also submit the final Board adopted "Potential Sea Level Rise Maps," as well as maps of natural grade for parcels in Marin County, and renderings of the proposed maximum height changes, to facilitate review of proposed policies C-EH-8 through C-EH-12. The proposed maximum height changes should reflect the Board's action which required a minimum of 3 feet of freeboard to account for potential sea level rise. The Potential Sea Level Rise Maps should indicate the sea level rise flood hazard associated with 3 feet of sea level rise and 100 years, as these pertain to implementation of the County's proposed hazard policies, unless the Board adopted a different standard. Please also provide a discussion of the methodologies used for arriving at the proposed "Potential Sea Level Rise Maps."

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Marin County Response:

The Board of Supervisors adopted all maps in the Environmental Hazards chapter (Maps 9 -15 and 17) as well as the Categorical Exclusion Areas maps (Map Set 27a – 27k), Appeal Jurisdiction Areas maps (Map Set 28a – 28b), and Zoning Maps (Map Set 29a – 29) at the hearing on April 16, 2016. These maps are no longer preliminary and the “draft” notation has been removed. The maps have not otherwise been modified. All the maps have been combined into a file called “20160510_All_LCPA_Maps.pdf” and have been uploaded to the Coastal Commission’s ftp server in the “Marin Resubmittal” folder.

The maps indicating the potential locations of the village commercial core areas are not a part of this submittal since they are illustrative only. The actual delineation of the village commercial core area will require a rezoning process when and if revisions to the C-VCR Zone are finally certified. The maps were circulated solely to inform the public of the potential areas that might be considered in such a rezoning in order to implement the LCP amendment provisions. The rezoning process will include public engagement with each affected community to provide information, obtain feedback, and evaluate the proposed boundaries of the commercial core areas, in addition to formal public hearings before the Planning Commission and Board of Supervisors. As is the case with implementation of any changes in zoning designations, the actual rezoning of individual parcels will take place only following, and not prior to, the Commission’s certification of the revised LCP.

You have asked for “final” Board adopted “Potential Sea Level Rise Maps”. As you know, at its hearing the Board changed the water level for these maps. Staff is diligently preparing a new set of maps showing a 3 foot rise in sea level, and we expect to have these in the next two weeks. Amendment 4 should be filed with a contingency that these new maps are provided, so processing can begin on other Amendments.

You have asked also for “maps of natural grade for parcels in Marin County.” Preparation of lot-by-lot information on building elevations and potential flood depth is a step, like that of rezoning individual parcels, that will be undertaken only at such time as the Coastal Commission certifies the updated LCP. The key parameters of LCP provisions for responding to flood hazards are contained in policies such as C-EH-8 and C-EH-9, which should enable the Coastal Commission’s review of the overall impact of revising the LCP as proposed by the County. It would be an inefficient use of staff resources at this point to develop site-specific implementation tools to carry out LCP provisions that the Commission has not yet considered or certified. The methodology to be followed at the appropriate time will rely on Geographic Information Systems technology including, the following GIS layers:

- 2013 Marin County Digital Elevation Model
- 2004 Marin County Building Footprint

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- 2015 Our Coast Our Future 100 cm (3.3 feet) Sea Level Rise (no storm) Flood Depth

Using GIS analysis techniques, each building will be joined with a value representing the maximum flood depth underlying its footprint. From there, each flood depth value will be rounded up to the nearest whole foot (0-4 feet), which is the assigned “Potential Sea Level Rise Value” for that structure.

- 3) **Policy C-CD-15.** The Board of Supervisors added Policy C-CD-15 to the now proposed LCP Update, when this policy was explicitly removed in the Commission’s approval of the LUP in 2014. As requested in our status letter dated December 16, 2015, please update and discuss the sufficiency of Appendix 2’s 2012 inventory of Visitor Serving Commercial and Recreational Facilities in the Coastal Zone.

Marin County Response:

Your statement that “this policy was explicitly removed in the Commission’s approval of the LUP in 2014” is not accurate. The Commission included a suggested modification on May 15, 2014 that the policy be deleted. As you know, under Coastal Act Section 30512.2(a), the precise content of each LUP is to be determined by the local government. The Board of Supervisors was fully aware of the Commission’s suggested modification, but the Board did not concur with it and instead included the Policy C-CD-15 in the current resubmittal. We believe the updated LCP provisions allowing mixed uses in villages and supporting visitor-serving uses in numerous ways will be found by the Commission to be sufficient to achieve the basic state goals specified in Section 30001.5 of the Coastal Act.

Appendix 2, the “Inventory of Visitor-Serving, Commercial, and Recreation Facilities in the Coastal Zone” contains three tables:

Table 1: Food, Beverage, and Other Commercial Services in the Coastal Zone

This table lists grocery, restaurant and bars, gas and auto repair shops, and other facilities, such as a post office or ATM location, by name, for each of the village areas.

Table 2: Public Parks and Recreation Facilities in the Coastal Zone

This table provides information on park acreage, amount of shoreline mileage, number of sites or beds for campsites and hostels, parking spaces, and other amenities, such as restrooms, showers, and picnic areas for each park and recreation facility in the coastal zone.

Table 3: Overnight Accommodations in the Coastal Zone

This table lists the types of overnight accommodations for each village. This lists the number of rooms for each hotel, motel, Inn, and bed and breakfast facilities. It also lists the number of rooms for private rentals, including vacation rentals, as the number of campsites, trailer RV spaces, hostel beds, and the person capacity for each facility.

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As noted above, it would be inappropriate to gather and analyze additional data at this point in the planning process. Moreover, it is also true that we are not aware of significant changes over the past few years in the numbers of public parks or food and beverage services in the coastal zone. The numbers of overnight accommodations may change from time to time, but by the same token, those numbers might change even between the filing of the LCP amendment submittal and consideration of it by the Commission. In any event, we have no basis to conclude that any changes that may have occurred since the previous LCP submittal was filed in 2013 are substantial.

The tables contained in the current submittal package provide an ample overview of the character and extent of visitor-serving facilities in the coastal zone. That information should suffice to allow the Commission to adequately assess whether the proposed LCP provisions are adequate or whether a different approach is warranted, taking into account more than thirty years of LCP implementation and the generally low-key nature of visitor services found in West Marin coupled with the existence of some of California's largest and most-visited coastal parks. The question of whether LCP provisions are appropriate to meet Coastal Act standards is one that the Commission can only address at such time as the submittal is brought before it for consideration.

- 4) Supplementary Data.** As requested in our status letter dated December 16, 2015, please update, as necessary, all data previously submitted in support of the LCP Update, including supporting data provided by the County in its appendices. As stated in 14 CCR Sections 13519 and 13552, since such information will be used to review the overall LCP Update (including the resubmitted and newly submitted portions of the LUP) for conformity with the requirements of the Coastal Act at the time the Commission acts on the Update, it is important such supplementary data is as up to date as possible. Because the County has been working on the Update for many years, some materials are now out of date. Data of particular supporting the adequacy of public services to support current build out estimates, and information supporting the proposed numeric grading thresholds set forth in the LCP Update materials numbered as Amendment 3.

Marin County Response:

We believe that all supplementary data is as up to date as necessary for planning purposes, and we are not aware of specific items that are "out of date." The overall policy impacts of the proposed revisions to the LCP can readily be assessed by the Commission at this point, just as they were assessed in 2013. Public service providers remain the same as they were in previous years, and we are not aware of comments received from such providers indicating that significant changes have occurred in their ability to serve customers. Development in much of the coastal zone, as you know, is dependent upon on-site services, the adequacy of which must be established pursuant to LCP policies prior to project approval.

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Regarding specific materials in the Appendices, we offer the following responses.

[Appendix 1: List of Recommended Coastal Accessways](#)

This list includes information from Units I and II and does not need to be updated.

[Appendix 2: Inventory of Visitor-Serving, Commercial, and Recreation Facilities in the Coastal Zone](#)

This document is discussed in Item (3) above.

[Appendix 3: Coastal Village Community Character Review Checklist \(Local Coastal Program Historic Review Checklist\)](#)

This document does not need to be updated.

[Appendix 4: Design Guidelines for Construction in Areas of Special Character and Visitor Appeal and For Pre-1930's Structures](#)

This document does not need to be updated.

[Appendix 5: Seadrift Settlement Agreement](#)

This document does not need to be updated; nothing has changed.

[Appendix 6: Geology for Planning in Western Marin County by David L. Wagner, 1977](#)

This document does not need to be updated.

[Appendix 7: Categorical Exclusions Orders and Maps](#)

[This document contains the following:](#)

- Resolution No. 81-238: A Resolution of the Board of Supervisors of the County of Marin Accepting and Agreeing to the California Coastal Commission's Conditions of Approval for Categorical Exclusions in the Unit I Coastal Zone of Marin County
- Categorical Exclusion Order E-81-2
- Resolution No. 82-162: A Resolution of the Board of Supervisors of the County of Marin Accepting and Agreeing to the California Coastal Commission's Conditions of Approval for Categorical Exclusions in the Unit II Coastal Zone of Marin County
- Categorical Exclusion Order E-81-6
- Resolution No. 82-330: A Resolution of the Board of Supervisors of the County of Marin Accepting and Agreeing to the California Coastal Commission's Conditions of Approval for Categorical Exclusions in the Unit II Coastal Zone of Marin County
- Order Amending Categorical Exclusion Order E-81-6
- Resolution No. 83-102: A Resolution of the Board of Supervisors of the County of Marin Accepting and Agreeing to the California Coastal Commission's Conditions of Approval for Categorical Exclusions in the Coastal Zone of Marin County
- Categorical Exclusion Order E-82-6
- Categorical Exclusion Area Maps (Maps 27a – 27k)

Replace the Categorical Exclusion Area Maps in the Appendix with revised versions.

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These maps have been updated, as discussed in Item (2) above.

[Appendix 8: Certified Community Plans \(Dillon Beach Community Plan and Bolinas Gridded Mesa Plan\)](#)

This document does not need to be updated.

[Grading Thresholds](#)

As originally approved by the Board of Supervisors in 2013, grading was defined in the Implementation Plan as excavation or filling that exceeds 150 cubic yards of material. This threshold was suggested for deletion by the Commission in 2014. In 2015, the Board of Supervisors adopted instead a greatly reduced threshold of 50 cubic yards. This action was taken to maintain the viability of Marin's coastal agriculture consistent with Coastal Act Sections 30241 and 30242, which among other things seek to maintain agricultural production to assure the protection of the areas' agricultural economy. The decision specifying 50 cubic yards is in part an outgrowth of a working group of environmentalists, conservationists, agricultural operators, and the Marin Agricultural Land Trust convened by the Marin Conservation League. This standard will expedite a number of routine management and maintenance activities supporting agriculture such as creating a rock base at watering troughs and filling potholes in existing farm roads to avoid soil erosion that could otherwise occur.

- 5) **County's "Amendment 7" (Remainder of the Implementing Program).** The LCP Update materials titled Amendment 7 appear to be an incomplete document as there are still a number of County internal comment bubbles that allude to the need for further internal discussions (such as comments identified as SFS13, SFS14, JL15, JL16, JL20, SFS25, SFS27, SFS28, etc.). As such, it is unclear if the document provided is final, or if it represents something else (e.g., the comments are references to items the County would like to discuss with Commission staff moving forward). Please provide us with an updated Amendment 7 document in a clean form (i.e., no 'draft' references, and no County staff comment bubbles) representing the Board adopted version. If there are internal comments that have yet to be resolved or the comments reflect a desire for further discussion with Commission staff prior to a Coastal Commission hearing, please provide a separate document with those comments appended. Further, it does not appear that all of the recommended changes addressed in the staff report are in the submitted version of Amendment 7, including modifications proposed to IP Section 22.64.140. Please ensure that all language approved by the Board is included in the final submittals. Finally, only a limited number of the modified provisions in Amendment 7 are discussed in the County's staff report. Please provide a discussion of Amendment 7's relationship to and effect on other sections of the LCP and provide information sufficient to allow for the review of the modified provisions for conformity with the requirements of the Coastal Act. In particular, please address all modified provisions relating to height limitations.

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Marin County Response:

Your questions concerning comment “bubbles” in Attachment 7 reflect an earlier draft of the attachment, which unfortunately was provided to you by mistake. We apologize for that oversight, and have enclosed a “corrected” final version of Attachment 7 which removes internal comment bubbles and includes all approved modifications to 22.64.140 -Public Facilities and Services, as approved by the Board of Supervisors. Because the internal comments will not appear in the document, it is unnecessary to create a separate document with comments appended. As noted under item (1) above, all comments and summary responses have been provided to you already.

Amendment 7 complements other IP provisions that address agriculture (AG), environmental hazards (EH), and administration (22.68 and 22.70). Together, these sections provide a complete IP that conforms with and is adequate to carry out all LUP policies.

Height limitations are addressed in section 6(f) and 8 (i) and (n) below.

- 6) CDP procedures.** Please provide responses to the specific questions set forth below.

Marin County Response shown for each lettered item:

Answers to your questions are below:

- a.** If the County does not plan to track and notice exemptions, how do they propose to implement 22.68.060C?

The County will track Coastal Permits, building permits, and other entitlements using its new permit tracking system, which is now in the process of being deployed. When one or more entitlements are required, the system will accommodate record-keeping for any Coastal Permit exemptions. Regarding the provisions of Sec. 22.68.060.C., note that any conceivable expansion of floor area will require at least a building permit, if not some additional form of review (such as Design Review). Therefore, a record will be created of that building permit, along with the fact that the expansion might be exempt from a Coastal Permit if, for example, the expansion constitutes only 5 percent of floor area. If that property owner comes to the County two years later and asks for a 7 percent expansion, then the permit tracking system will reveal that a further Coastal Permit exemption would not be available, because the previous expansion and the newly proposed one together would exceed 10 percent of floor area.

- b.** Why does the County propose to remove “natural” in 22.68.050(c) when this would align with Sec 13252 of the Commission regulations which identifies when a permit is required for purposes of Section 30610(d)? The County response letter speaks to 30610(g) which is for replacement structures.

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The LCP amendment submittal omits the word “natural” in Sec. 22.68.050(c) because “Disaster (coastal)” is defined as “Any situation in which the force or forces which destroy a structure were beyond the control of its owner.” Thus, that definition would encompass acts of nature as well as acts of humans, assuming those could be distinguished, and is consistent with the language set forth in Coastal Act Section 30610(g), the exemption for replacement of any structure destroyed by disaster. In general, the County’s intent is to avoid using definitions that imply or could be construed as having a distinction in meaning when no such distinction exists or is intended. Note that the Definitions chapter also includes a definition for “Natural disaster,” but that term is not specially identified for use in the coastal zone.

- c. Why is the County proposing that the Director shall determine a change in intensity of use in 22.68.060 in a manner different than what is outlined in the Commission regulations?

In Sec. 22.68.060.D, the proposed text regarding the Director’s determinations about changes in intensity of use is included only to clarify that it is the Director who is the responsible agent for the Community Development Agency to make such determinations. As you know, it is not necessarily self-evident when a change in intensity of use is proposed to take place. Someone must make the decision, based on the facts of the case at hand, and the appropriate person in the County is the Director, who is also responsible for carrying out other administrative and processing provisions. The proposed text makes no assumptions about the outcome of the Director’s determination, but rather establishes only who makes the determination.

- d. Please clarify the expiration timeframe for waivers. Amendment 6 (Final Permit Admin IPA) and the staff report indicates 3 years, while the Enclosure 2(a) indicates that it was changed to 2 years.

In Sec. 22.68.070 – De Minimis Waiver of Coastal Permit, paragraph G, expiration of a waiver would occur after three, not two years. Leading up to the Board of Supervisors action on April 19, 2016 there was some back-and-forth regarding the appropriate expiration period, but in the end the Board approved a three-year period, as reflected in Amendment 6, which it concluded is reasonable.

- e. Please discuss why development that necessitates the approval of a variance in height, FAR and setback should be identified as principally permitted in any zoning district.

Uses, not structures, may be either principally permitted or not. A Coastal Zone Variance, by contrast, is available only to provide relief from standards for height, floor area ratio, and yard setbacks under specified circumstances. As provided by Sec. 22.70.150, a Variance is not available to change uses, minimum lot sizes, or density. Thus, issuance of a Variance could not alter the fundamental nature of the use, but rather provide a means of administrative relief from the strict application of

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development standards. Approval of a Coastal Zone Variance to allow, for instance, a reduced yard setback based on the facts of a particular case would not make the use in question appealable because the Variance would have no impact on the use one way or the other.

- f. Please explain how all of the modified height provisions are consistent with and adequate to carry out LUP policies that conform to the Chapter 3 policies of the Coastal Act?

Your reference to “modified height provisions” apparently refers to the height limits set forth in the LCP submittal. The height limits in LUP policies such as C-DES-4 remain as they are now in the currently certified LCP. Therefore, the height limits are simply that: not “modified” limits, but rather limits that the County proposes.

Environmental Hazards Policy C-EH-9 contemplates modest exceptions to the otherwise applicable height limits, but only under specified circumstances and only to assure safety of persons and property in flood hazard zones. The County must balance the protection of coastal resources with the needs of residents and visitors in applying Coastal Act policies, and the hazards policies do just that. If, ultimately, the Commission were to conclude that modestly higher roof heights in limited circumstances than would otherwise be allowed conflict with Chapter 3 policies, then that would certainly be the Commission’s determination to make. Analysis of that question, under applicable Commission Regulations, should appropriately take place after and not before the LCP submittal has been filed.

- g. Please specifically respond to Commission suggested modifications to 22.70.190. Enclosure 2 (a) did not address this.

Regarding Sec. 22.70.190, the Commission suggested no modifications. The Commission staff proposed certain modifications in 2015 to the Implementation Plan, but the County withdrew its proposed IP from consideration and no modifications were adopted. The County now proposes a new submittal, which stands on its own. The submittal should be filed so that the Commission can consider whether to approve it as submitted or to suggest modifications.

- 7) **Reference to Appendix 7 within LCP Update Materials numbered as Amendment Number 6.** Per proposed IP Section 22.68.040, please submit Appendix 7 which must include all approved Categorical Exclusion Orders and all local zoning ordinances in effect at the time the Categorical Exclusion Orders were adopted.

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Marin County Response:

This item requests submittal of Appendix 7. The specific contents of Appendix 7 are described above in Item (4) Supplementary Data. An additional request is for all local zoning ordinances in effect at the time the Categorical Exclusion Orders were adopted. This document is named "Title 22 of the Marin County Code Revisions to April 1981.pdf" and has been uploaded to the Commission's ftp server.

- 8) **Hazards.** As required by 14 CCR sections 13519 and 13552, please provide a discussion of the hazards portion of the LCP Update and its relationship to and effect on other sections of the LCP and provide sufficient data to allow review for conformity with the requirements of the Coastal Act including protection of visual resources, public access and recreation, marine resources, water quality and sensitive habitat areas. Such analysis shall include a discussion of the following:

Marin County Response shown for each lettered item:

- a. Please explain how the proposed LCP would ensure that public access and sensitive habitats along the shoreline would be maintained and protected as homes are elevated, including in relation to the changing nature of the public trust as the MHTL moves inland.

The boundary between state owned tidelands and private or publicly owned uplands—the mean high tide line—is anticipated to continue shifting landward due to sea-level rise, affecting coastal land ownership boundaries in many cases. The State Lands Commission may require structures or debris to be removed in the event that they encroach on State tidelands, or may provide leases for continued use. As the public trust boundary moves inland, Marin County's government and residents will continue to explore alternative strategies to ensure that public access and sensitive habitats are maintained and protected. The County's programs to address sea level rise (LCP program C-EH-22 and the C-SMART Adaptation Report) include shoreline monitoring and identification of triggers for adaptive management actions, such as minimum beach widths, to initiate strategies such as beach nourishment or managed retreat.

The majority of homes along the West Marin shoreline that would need to be elevated or otherwise retrofitted are at risk from wave action and temporary flooding during storm events. By the time "permanent inundation" (daily flooding during high tide) from sea level rise occurs the County will have considered through an adaptive management strategy if and how homes can and should be occupied. Elevated homes would occupy approximately the same footprint as the original home, and those that might be proposed for expansion would be subject to Coastal Development Permit requirements. For perspective, public access along a 1,000-foot stretch of Stinson Beach (less than 10 percent of the 2-mile total) may be restricted by 3 feet of "permanent" sea level rise.

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Your question of how public access and sensitive habitats would be maintained as homes are elevated seems to refer to existing public access and existing sensitive habitats. Because those attributes are not present to any appreciable degree within the “footprint” of existing homes, it is not anticipated that raising them a few feet would have any impact on access and habitats. In any event, the proposed provisions for raising homes if needed are complete and should be filed, and again any debate about the appropriateness of such provisions under Chapter 3 policies would be one for the Commission to consider.

- b.** Acknowledging the potential risk of up to 4.48 ft. of sea level rise in 2100, and evidence that suggests that sea level rise is occurring at rates faster than recent projections, please explain how using 3 ft. of sea level rise will ensure that new development is safe from hazards.

Principle 2 of *The California Coastal Commission Sea Level Rise Policy Guidance (CCC SLR Guidance)* states:

“Use then best available science to determine locally relevant (context-specific) sea level rise projections and potential impacts for all Coastal Act planning processes, project design, and permitting reviews.”

Principle 2 then lists the *2012 National Research Council Report Sea-Level Rise for the Coasts of California, Oregon and Washington: Past, Present, and Future (NRC Report)* as the best available SLR science at the time of the *Guidance’s* 2015 publication.

The *NRC Report* identifies 17-66 inches as the 2100 SLR projection range for areas south of Cape Mendocino which includes Marin County.

Thirty-six inches (3 feet) falls within this range and is the closest whole foot value to the exact midpoint (41.5 inches). Thus, this value is consistent with best available science as stated in *CCC SLR Guidance*.

- c.** Please explain how the County will determine the 100 year time frame sea level rise in implementation of Policy C-EH-2. If the County will be providing the 100 year time frame, wouldn’t this have to be updated each year to ensure the 100 year time frame is accurate? Please provide maps, adopted by the Board, to indicate which properties would be subject to this policy.

Through this LCP update, 3 feet of Sea Level Rise will be adopted by the County as the level for applicants to assume/disclose risk for until 2026, at which point the County will re-evaluate the risk level.

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- d. How will the hazard policies ensure that new or expanded septic systems in flood hazard areas will protect water quality and marine resources consistent with the Coastal Act?

New or expanded septic systems in the immediate shorefront area may be part of "Shoreline Development," addressed in Policy C-EH-5.B: "Ensure that new shoreline development (defined as development located in a VO, V1-V30, VE or V zone as mapped by the Federal Emergency Management Agency [FEMA]) is safe from shoreline erosion and flooding hazards, taking into account 3 feet of projected sea level rise, without the need for new shoreline protective devices...A hazards analysis shall evaluate the effect of geologic and other hazards to ensure stability and structural integrity taking into account 3 feet of projected sea level rise. The hazard analysis shall also evaluate the effect of the project over time on coastal resources." "Coastal resources" addressed by hazards analyses include water quality and marine resources.

Additionally, Policy C-EH-2 "Applicant's Assumption and Disclosure of Risk" specifies: "As a condition of coastal permit approval for development in hazardous areas, require the applicant to record a document: ... Acknowledging that Housing Code provisions prohibit the occupancy of structures where sewage disposal or water systems are rendered inoperable..." In addition to LCP requirements, local utility districts govern septic systems in some coastal communities and conduct regular water quality monitoring. For example, the Stinson Beach County Water District set high standards for governing wastewater regulations to improve ground and surface water quality, primarily through the Onsite Wastewater Management Program.

- e. If the hazard policies are not updated by 2026, what estimate of sea level rise will be used to implement the hazard policies?

The County is committed to the timely update of its hazard policies, and will do so in 2026.

- f. The Board action did not remove the 50 year time frame for analysis. Please explain why the modifications made to the hazard policies removed the time frame for analysis altogether.

You have asked for an explanation of why the 50 year time frame for analysis was removed from Policy C-EH-1 (Safety of New Development). The Board of Supervisors has approved different time frames for the analysis of differing types of hazards (i.e. 100 years for bluff retreat, 3 feet of sea level rise for flooding [roughly equivalent to the year 2100]) so instead of referencing a single time period in C-EH-1, the specific "timeframe" applicable to each hazard is specified in the relevant policy. This mirrors the format of the certified LCP which includes a general hazard policy without a specific timeframe, but refers to expected economic lifespan (50 years) with respect to bluff retreat.

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- g.** How will the County determine what constitutes replacement of 50 percent or more of a single-family residence? If a single family residence replaces 45 percent of its structure in one year, and 45 percent in the next year, would the County consider the second repair and maintenance exempt from CDP requirements? If the County does not plan to track and notice exemptions, how do you propose to implement 22.68.060C?

The County will track building permits and other entitlements using a new permit tracking system. The system will enable planners to view past records for a given parcel and thus apply the provisions of Sec. 22.68.060.C. as appropriate. Please see our response above to Item (6) a.

- h.** For areas in FEMA and sea level rise hazard areas, please discuss the scientific evidence that justifies that elevating structures to FEMA requirements plus the 3 feet of estimated sea level rise will protect the structures from flood hazards for the life of the structures. Please explain how requiring FEMA elevation even when unnecessary according to FEMA regulations would be consistent with the visual resource policies of the Coastal Act.

The sea level rise adaptation process is not predicated on the life of a structure; instead it is determined by the amount and nature of sea level rise and the appropriate adaptation techniques that can be brought to bear within the context of environmental, economic and equity considerations

- i.** Please provide evidence that the following provision protects visual resources, public views and community character consistent with the Coastal Act: “raising structures as provided in policies C-EH-5, 8 and 9 and limiting the height to that required for BFE and/or sea level rise elevation shall be deemed sufficient to comply with coastal hazard, public view, and community character provisions.”

The Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance, and more specifically that permitted development shall be sited and designed to protect views to and along the ocean. Communities with homes that may be elevated include Muir Beach, Stinson Beach, Bolinas, East Shore, and Inverness. Through West Marin’s low lying communities along Shoreline Highway, its main thoroughfare, there are few, if any, areas the ocean (including Tomales Bay) can be viewed. Marin County Community Development Agency staff has previously videotaped for informational purposes a drive along Shoreline Highway from Bolinas Lagoon to Stinson Beach and documented what we long ago determined to be the case: that in the vast majority of cases existing views are already blocked by vegetation and existing development, and additional elevation would have no impact on these qualities, with the exception of a couple small clusters of homes in Inverness and East Shore.

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The same case is true of the rest of West Marin. To show this, CDA staff has conducted a similar video documentation inventory, and have additionally reviewed GIS elevation maps comparing Shoreline Highway's elevation to parcel elevation of V-Zone homes potentially needing to be elevated and have not identified locations where additional elevation would block views to and along the ocean. All these videos are being uploaded to your ftp site.

The character of Stinson Beach has been described as 'funky' and 'eclectic' by residents due to the homes' diverse heights, styles, and materials. Home sizes range from one to three stories, and homes adjacent to one another often differ in size. Thus, diversity, including varying heights, is part of the existing community character and which additional elevation of certain homes should not impact.

We note, again, that the essence of this question is a policy matter, as opposed to a "completeness-of-submittal" question. That is, whether the proposed LCP provisions will act to comply with Coastal Act policies is a matter for the Commission itself to decide. Those provisions were developed through an extensive process that included community workshops, hearings, and comments. At this point, we are not able to provide additional "evidence" that assures a particular outcome, as you suggest.



Images depicting existing height variation of adjacent homes in Stinson Beach

Please also refer to our response to Item 8.n below.

- j.** If the height limit of structures in Stinson Beach is 25 feet, and the Board motion requires a minimum freeboard of 3 ft. (resulting in an elevation of at least 3 ft.), how will any elevation project be exempt per the CDP procedures section 22.68.060 (c) as a 10% increase in height cannot be exempt (10% of 25 feet = 2.5 feet which is less than the minimum required elevation)?

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Regarding Sec. 22.68.060.C. which addresses non-exempt improvements to existing structures, it is true that raising certain structures to meet flood requirements would not necessarily be exempt, given that the exemption only allows up to a 10 percent increase. Not every house is currently at the 25 foot limit height limit and not every house has its foundation at existing grade level. By way of example, an existing 23-foot-high house might need to be raised only 2 feet to meet the freeboard requirement, in which case raising the dwelling might be exempt. On the other hand, if the exemption were not available in any particular case, then a Coastal Development Permit would be required.

- k.** Please explain how allowing new shoreline development to rely on existing shoreline protective devices is consistent with Coastal Act Section 30235.

It appears that this question has to do with proposed Policy C-EH-5 and the shoreline development provisions, which require that new shoreline development shall be safe without the need for new shoreline protective devices. This policy implements Coastal Act Section 30235 by indicating that new shoreline protective devices are not allowed for new shoreline development (we note that Section 30235 does not prohibit new shoreline protective devices for existing development nor does it prohibit new development that may be shielded by an existing shoreline protective device).

Furthermore, the word “new” in this instance is appropriate, because not all development consists of construction on a lot that is vacant except for an existing shoreline protective device. That is, “development” also includes major renovation or expansion of an existing structure, already protected by a shoreline protective device. In that instance, the policy makes clear that the expansion/renovation cannot depend upon a brand new shoreline protective device.

- l.** Please explain how the use of caissons and pier foundations for new shoreline development is consistent with Coastal Act Section 30235.

Coastal Act Section 30235 states:

“Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply....”

Caisson and pier foundations are much different structurally than the above-mentioned structures. Seawalls, breakwaters, etc. are all considered shoreline protective devices and if not designed/sited properly can alter natural shoreline processes such as the landward migration of beaches and wetlands of critical importance in the face of sea level rise and increased storms. *The California Coastal Commission Sea Level Rise Policy*

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Guidance defines Shoreline Protective Devices as: “A broad term for constructed features such as seawalls, revetments, riprap, earthen berms, cave fills, and bulkheads that block the landward retreat of the shoreline and are used to protect structures or other features from erosion and other hazards.”

FEMA requires open foundations such as piers and piles in V Zones and recommends them in A Zones as these foundations allow water to pass easily below, thus not altering shoreline processes.¹ As these foundations will not alter shoreline processes, they are in no way inconsistent with Coastal Act Section 30235 (of course, projects that require a Coastal Permit will be reviewed for conformance with other relevant sections of the Coastal Act, including but not limited to Section 30251 and 30253).

- m.** The County Floodplain ordinance is cross referenced. Please provide an analysis of the relationship of the newly incorporated floodplain ordinance on other sections of the LCP and how incorporation of the ordinance complies with Coastal Act requirements.

You have requested an analysis of the relationship of the floodplain ordinance to other sections of the LCP and how the ordinance complies with Coastal Act requirements. The Floodplain Ordinance incorporates specific construction standards for development in flood hazard areas (including anchoring, construction materials and methods, elevation, and flood proofing). Adoption and implementation of this ordinance is required for County eligibility in the National Flood Insurance Program and is mandatory throughout the County regardless of whether or not it is referenced in the LCP. It would be unnecessarily redundant and potentially confusing to duplicate a portion or all provisions of the Floodplain Ordinance in the LCP. Overall, this Ordinance supports the requirements of Coastal Act Section 30253 by minimizing risks to life and property in flood hazard areas.

- n.** The staff report only evaluates the potential visual resource implications for Calles. Please provide evidence of and an analysis for the rest of the coastal zone in Marin County.

Public views of major landmarks and scenery in West Marin, including Mount Tamalpais and Point Reyes National Seashore, would not be significantly impacted by additional elevation of structures to address sea level rise. Highway 1 and Sir Francis Drake Boulevard lead residents and visitors past scenic beaches, parks, water bodies and open space areas along the coast. Communities with homes that may be elevated include Muir Beach, Stinson Beach, Bolinas, East Shore, and Inverness. Pursuant to Policy C-EH-9, any structure more than 30 feet high would be required to conduct an individual evaluation of conformance with public views and community character. The five feet

¹ FEMA. *Recommended Residential Construction for Coastal Areas: Building on Strong and Safe Foundations*. 2013.

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above the current 25-foot height limit would only come into play to the degree necessary to accommodate raising an *existing* home to a safe elevation, is consistent with the height limit in the rest of the County, and, as described below, will not have significant impacts to the character of Marin’s coastal communities.

In Muir Beach, a handful of homes in the floodplain are surrounded by vegetation, and their elevation would not impact views from public areas. In Stinson, views from the beach toward Mount Tamalpais, or from Shoreline Highway toward the ocean, would not be obscured by additional structural elevation. In East Shore, homes along Tomales Bay protect Highway 1. Due to the road’s proximity to the bay, the homes at their current height block views during short stretches of road, and additional elevation would not affect that situation. In Inverness, the handful of structures that may elevate for sea level rise protection are not located very near one another, and their elevation would not obscure views toward Tomales Bay or the grasslands and forested hills beyond. The figures below show some of the areas in which homes may need to elevate for sea level rise.

Figure 1. East Shore homes along Tomales Bay, view from Shoreline Highway



Figure 2. Inverness homes along Tomales Bay, from Sir Francis Drake Blvd.



Figure 3. Bolinas homes along Wharf Road

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Staff has traveled Marin's coastal zone noting where views of the ocean are and are not available, leading to the conclusions described above. A summary of this analysis is provided as an attachment to this letter (see Supplemental Visual Impact Analysis and Supplemental Impact Analysis Videos). At this point, the LCP provisions that address visual resources are complete in the submittal and appropriate for filing. The question of their sufficiency to meet the basic goals of the Coastal Act is a separate question which would be for the Commission to decide.

- o.** Please explain how the proposed LCP would ensure that public access and sensitive habitats along the shoreline would be maintained and protected, as homes are elevated.

This topic is addressed in the response to Item (8)1 above.

- p.** Please explain how eliminating site specific analysis and site specific hazards reports adequately ensures new development's compliance with Coastal Act requirements.

It is not clear what is meant by "eliminating site specific analysis." Policy C-EH-5 requires coastal hazards analysis both for blufftop development and for non-blufftop, shoreline development. In general, the County's approach is to supplement site-specific information required from individual applicants with broader information that is available for the County's entire coastal zone. The above policy will be applied in conjunction with other relevant policies and regulations, such as Policy C-EH-1 that requires all development to be safe and that risks be minimized and Section 22.70.030A. requiring supporting materials to determine that any given project complies with all LCP policies.

- q.** Please provide evidence that illustrates that the definition of shoreline development would cover all areas in the County that should be subject to the shoreline development requirements.

As approved by the Board, shoreline development is defined as development located in any FEMA designated "V" zone (including VO, V1-V30, VE, or V). The purpose of this definition is to address hazards related to shoreline erosion (since V zones comprise those areas where FEMA anticipates "high velocity wave action" which could result in erosion). There are portions of the Marin coastline which are NOT in a "V" zone (for example, the entire Inverness shoreline along the western edge of Tomales Bay). These areas are expected to experience flooding, but without the erosion impacts of wave action. Therefore, it is appropriate that development along the shoreline outside of "V" zones be subject to different requirements than similar development within a V zone.

- r.** Please explain how removing setbacks for shoreline development would protect sensitive dune and wetland habitat consistent with Coastal Act and LCP sensitive habitat requirements.

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This question is unclear. The current LCP submittal should be addressed on its own merits, not in comparison to the previous submittal because the latter is no longer on the table. If the question has to do with a previous suggested modification that would have required existing development to be further set back to avoid exposure to sea level rise and flooding hazards, the County's response is that relocation of structures would be largely ineffective because there is little room for such movement, and little, if any, topographic change that could be achieved.

- s. How is the pre-determined allowance of a permit waiver per C-EH-25 consistent with the requirements of LCP Section 22.68.070?

Policy C-EH-25 sets up a procedure for a Coastal Development Permit waiver, but only if specific findings can be made (i.e., that brush clearance is required by fire safety regulations and also that the clearance minimizes impacts). Therefore, a waiver would not be available in every instance. Sec. 22.68.070 provides that a waiver could be issued only where a development has no potential for adverse effects on coastal resources. These provisions are intended to balance the safety of human lives with protection of coastal resources. In this instance, there is no conflict between them.

- 9) **Board Action relating to Hazards.** It does not appear that the Board action requiring a minimum increase in freeboard of 3 feet to account for sea level rise has been incorporated into the language of LUP Policy C-EH-8 and IP Section 22.64.060(A)(1)(b)(1)(a). Please explain how the transmitted language conforms to the Board's action. Please also explain why, following Board action, the timeframe for hazards analysis was deleted from LUP Policy C-EH-1 and IP Sections 22.64.060(A)(1)(a-b); and why LUP Policy C-EH-5(B) and IP Section 22.64.060(A)(2)(b) were modified to delete the County staff-recommended 50-year timeframe and to add 'safe from 3 feet of sea level rise.'

Marin County Response:

In its action on April 19, 2016, the Board of Supervisors expressed an interest in using a more conservative (higher) estimate of sea level rise than proposed by staff based on projections for the 50 year timeframe. Although the term "freeboard" was mentioned (i.e. "a minimum required freeboard of 3 feet"), the Board's intention was to ensure that development is safe from a 3 foot increase in sea level, which is projected to occur by 2100. The term "freeboard" refers to construction requirements (i.e. the elevation of development above a particular "base flood elevation") rather than the extent of sea level rise per se. To avoid confusion around this term and more clearly convey the intent of the Board, Policy C-EH-5(B) and Section 22.64.060.A.2.b were revised to remove the reference to a particular time frame (50 years) and instead specify the precise extent of sea level rise (3 feet) which must be analyzed. The materials in the County's submittal accurately reflect the action of the Board of Supervisors in approving the LCP amendments.

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10) Public Services. In addition to the data supporting the adequacy of public services to support current build out estimates requested in our December 16, 2015 status letter and reiterated in number 4 above, please submit water and other infrastructure plans and projections necessary to show adequacy of services for LCP identified development. Please also respond to the specific questions set forth below.

Marin County Response shown for each lettered item:

- a. As mentioned above, the version of Amendment 7 submitted to Commission staff does not include the Public Facilities and Services modifications outlined in the staff report. Please clarify if the Board acted on a version of Amendment 7 that included these modifications. If so, please submit the correct version. Please note that comments below only reflect the staff report language as we do not have the integrated IP language in tracked changes.

You have requested water and other infrastructure plans and projections necessary to show adequacy of services for LCP identified development. At this point, the Board has acted to approve and submit the LCP amendment packages. In short, the Board has made its decisions, which speak for themselves. The Board approved the Public Facilities and Services provisions outlined in the staff recommendation. However, the initial submittal to you included inadvertently an outdated version of Amendment 7. We have attached a correct version, entitled "Attachment_7_Final_Remainder_of_IPA_rev.pdf."

- b. Why does the County recommend removing Coastal Commission staff's language added to C-PFS-4 but then agree to address this concern through the IP? The proposed language added by CCC staff provides the policy basis, consistent with Coastal Act Section 30250, for Section 22.64.140.

"In areas of limited service capacity (including limited water, sewer and/or traffic capacity), new development for a non-priority use, including land divisions, not specified above shall only be allowed if adequate capacity remains for visitor-serving and other Coastal Act priority land uses, including agricultural uses."

This provision was not included since it would be highly speculative to estimate the type and amount of priority land uses that may or may not be proposed or approved in the future.

- c. Why has the County proposed to locate the public facilities and services program in section 22.64.140 of the Implementation Plan rather than the Land Use Plan, where all other programs are outlined?

A program to coordinate with service providers to develop standards to allocate and reserve capacity for Coastal Act priority land uses was included in Section 22.64.140

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addressing Public Facilities and Services. The program could not be added to the Public Facilities and Services section of the Land Use Plan since the Board had already approved amendments to the entire Land Use Plan, except for the Environmental Hazards Chapter, on August 25, 2015. While including programs in the Implementation Plan may provide a different approach, it is not precluded. The County believes it is important that this issue be addressed, and that in this instance it is appropriate to include it in the IP.

- d. Please explain how consistency with the standards in Marin County Code Chapter 7.28 will ensure that the development of private wells will not adversely impact adjacent biological resources including streams, riparian habitats, and wetlands, and will not adversely impact water supply available for existing and continued agricultural production or for other priority land uses consistent with the Coastal Act and LCP requirements.

Marin County Code Chapter 7.28 incorporates the State of California Well Standards to establish minimum well standards for domestic water use. It includes standards for setbacks, minimum seal depths for well types and conditions, sustained yields, qualifications of persons making yield tests, and water quality. With regard to water quality, the well source shall meet the physical, chemical and bacteriological standards of the State Department of Public Health and the US Environmental Protection Agency. Where an analysis indicates that the source initially would not meet such standards, the applicant shall provide a proposed method of water treatment, or condition of, such as chlorinating, filtration, or chemical adjustment to meet such standards.

It is not reasonable or feasible to require each individual development application for a well to analyze impacts on adjacent biological resources including streams, riparian habitats, and wetlands, as well as impacts on the water supply for existing and continued agricultural production or other priority land uses. It would be difficult to develop objective standards and methodology to determine if there is sufficient water capacity for other uses.

In response to the Commission staff's letter dated May 10, 2016, Chapter 7.28 is proposed for inclusion as part of the LCP amendment package.

- 11) Board Action Relating to Agriculture.** We appreciate County staff's agreement to address the concerns set forth in our October 22, 2015 filing letter requesting County staff to correct all references in the Land Use Plan and Implementation Plan relating to the "and necessary" issue so that it conforms to the action taken by the Board of Supervisors on August 25, 2015. As you may recall, the Board instructed County staff to return to the original language of C-AG-2 approved by the Board in 2013. Indeed, it appears that the County's December 2, 2015 transmittal conforms references relating to the principal use of C-APZ lands so that "development shall be accessory and incidental to, in support of and compatible with agricultural production." However, as indicated in our March 23, 2016

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comment letter, the latter half of C-AG-2 and its implementing provisions still need to be conformed to the Board's original language. Please revise all references to accessory structures so they are "appurtenant and necessary to the operation of agricultural uses.

Marin County Response:

Your letter asserts that further revisions to Policy C-AG-2 and its implementing provisions are needed to conform to the Board's direction to staff on August 25, 2015. Specifically, you have indicated that all references to accessory structures should be revised to specify that they must be "appurtenant and necessary to the operation of agricultural uses." Please note that Policy C-AG-2 was previously approved by the Board in August 2015, however, and cannot be modified by staff at this point. Nevertheless, this issue was addressed at some length in staff's December 1, 2015 response to Commission staff's letter of October 22, 2015.

As described in the above-referenced response, County staff had concerns that the Commission's proposal to insert the phrase "and necessary" into various LUP agriculture policies and IP provisions could be interpreted to mean that the "necessity" of agricultural uses or structures must be determined on a case by case basis. The Resubmittal language proposed by staff in August 2015 attempted to improve clarity in this regard by replacing "and necessary" with "or necessary". During the August 25th hearing, several Board members concurred with staff's concern but expressed a preference for removing the term entirely. Since this had not been clearly presented to the Board as an option, there was some uncertainty as to the Board's final direction on this issue. After careful review of the hearing videotape, staff concurred with Commission staff that the Board's intention was to remove the term "necessary" and revert to the language as approved by the Board in 2013 for Policy C-AG-2 which states, in part, that "...any development shall be accessory and incidental to, in support of, and compatible with agricultural production." Accordingly, Policy C-AG-2 was revised to remove the revisions suggested by the Coastal Commission as follows:

"...Ensure that the principal use of these lands is agricultural, and that any development shall be accessory and incidental to, in support of, and compatible with, ~~and necessary~~ ~~for~~ agricultural production."

This statement is followed by a list of the uses considered to be part of the principal permitted agriculture use, including agricultural production, agricultural accessory structures, agricultural accessory activities and agricultural dwelling units. Thus, the policy as approved by the Board provides a clear list of the uses and activities that, by their nature, have been deemed necessary for agriculture. The Board's intention was not to attach the qualifier "appurtenant and necessary for the operation of agricultural uses" to every reference to "agricultural accessory structures." No further revisions are required.

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12) Hearing materials. Please submit clean and strike through underline versions in electronic and hard copy format (including extra hard copies for hearing), multiple copies of a response to comments document (e.g., for staff table), maps in electronic and hard copy, photos representing different coastal resources (such as agricultural lands, agricultural housing, farms, views, villages, etc.).

Marin County Response:

We assume this request is for copies of materials to be available for distribution at the Commission. This is not a filing requirement, and our priority has been on responding to the filing requirements specified in your Status Letters. As soon as we completed that work, we turned to doing the additional work of reformatting the LCPAs to your specifications as a courtesy, and to keep maximum forward progress to the August 2016 CCC hearing.

Regarding your other requests in this section, as soon as the LCP submittal is filed and a date set for Commission hearing we could prepare copies “for the staff table.” Please indicate the number of required “multiple copies.” Preparing these materials will take some time, and therefore as soon as the LCP amendment is scheduled for action, we can discuss how best to provide what you need.

We will hold the County’s proposed LCP Update for six months (i.e., until November 6, 2016) pending receipt of the above-requested materials. After all of the above-listed materials have been received, the LCP Update file will again be reviewed and will be filed if it contains materials sufficient for a thorough and complete review. Please note that there may be additional materials necessary for filing purposes depending upon the nature of the information provided by the County pursuant to the above-listed materials. If all of the above-listed materials are not received by November 6, 2016, LCP amendment request LCP-2-MAR-15-0029-1 will be considered withdrawn. This submittal deadline may be extended for good cause if such request is made prior to November 6, 2016.

Commission staff looks forward to continue working with you and other members of the County on this important LCP Update. Please do not hesitate to contact Shannon Fiala of my staff at (415) 904-5266 or myself at 415-904-5290 if you have any questions regarding the above information requests.

Sincerely,



Nancy Cave
District Manager
North Central Coast District

Marin County Response:

In conclusion, we are appreciative of your efforts and those of other Commission staff members to help the County achieve its goal of updating and improving its Local Coastal

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Program. Given the County's previous submittals, the materials provided with this letter (including our commitment to provide the forthcoming revised sea level rise maps), as well as additional information your staff has requested to facilitate your review of the County's proposed amendments, we believe the County's submittal is sufficient to allow us to move forward to a Commission hearing in August.

We look forward to your filing of the materials as complete and to working with you on a defined schedule to resolve as many remaining differences as possible prior to your staff recommendation in advance of the Commission's August hearing. County staff will be in touch shortly to set up direct meetings.

Sincerely yours,

Brian C. Crawford
Director

Attachments:

[Marin County Land Use Plan Amendments 2015-2016 \(Compiled\)](#)
[Marin County LCP Implementation Program Amendments 2015-2016 \(Compiled\)](#)
[Marin Community Development Agency \(May 2016\) Supplemental Visual Impact Analysis.](#)

Uploads to Coastal Commission North Central District ftp site "Marin Resubmittal" folder:

[Marin County Land Use Plan Amendments 2015-2016 \(Compiled\)](#)
[Marin County LCP Implementation Program Amendments 2015-2016 \(Compiled\)](#)
["Supplemental Visual Impact Analysis"](#)
["Supplemental Visual Impact Analysis Videos"](#)
["20160510 All LCPA Maps.pdf "](#)
(Including "Categorical Exclusion Area Maps (Maps 27a – 27k)")
["Attachment 7 FINAL Remainder of IPA rev.pdf"](#)
["Title 22 of the Marin County Code Revisions to April 1981.pdf"](#)