

COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

Brian C. Crawford
DIRECTOR

September 11, 2012

Thomas Lai
ASSISTANT DIRECTOR

Marin County Board of Supervisors
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SUBJECT: Marin Countywide Plan Amendment

Dear Board Members,

RECOMMENDATION:

On behalf of the Planning Commission, staff recommends your Board take the following actions:

1. Review the administrative record;
2. Conduct a public hearing;
3. Adopt the Resolution Approving the 2012 Amendment to the 2007 Marin Countywide Plan.

SUMMARY:

On November 6, 2007, your Board adopted the Marin Countywide Plan (CWP), a comprehensive, long range document used to guide the conservation and development of Marin County. On January 27, 2009, your Board amended the CWP to address a number of technical corrections and minor text revisions to provide additional clarification and consistent use of terminology. The amendment also called for incorporating the Marin County Operational Area Hazard Mitigation Plan by reference into the CWP's Environmental Hazards section and making minor changes to the location of the Baylands Corridor boundary at the San Rafael Rock Quarry and San Quentin State Prison sites to more accurately reflect existing physical conditions.

Since that time staff has identified additional technical corrections and clarifications as part of the ongoing maintenance of the CWP. The proposed amendment includes minor grammatical changes, updates to flooding and land use maps, new language to further explain the role of community plans, and other minor changes to provide additional clarification. Descriptions of all the proposed modifications are shown in Exhibit A (Attachment 2).

PLAN CONSISTENCY AND ENVIRONMENTAL REVIEW:

The proposed amendments to the Marin Countywide Plan are minor and technical in nature and are consistent with State Law. The amendments are consistent with the goals and policies of the CWP because they correct, clarify, or otherwise revise existing policies and programs contained in the CWP. The potential impacts of implementing these amendments have been adequately addressed in the certified CWP Update FEIR. A subsequent or supplemental EIR is not required pursuant to CEQA Guidelines Section 15162 - "Subsequent EIRs" because the proposed project (i.e., proposed amendments) does not include substantial changes involving new or

more severe environmental effects that would result from the adoption of these amendments, nor does the proposal involve new information that was not known at the time the EIR for the CWP was certified.

PUBLIC NOTICE:

The Community Development Agency has published a notice in the Marin Independent Journal which includes a general description of the proposed amendments to the Marin Countywide Plan. Notices were also mailed to property owners of the subject properties of the proposed land use changes in the Marinwood and North Novato areas. In addition, a copy of the public notice has been mailed to interested public agencies, organizations, community groups, and individuals, as well as posted to the Marin Countywide Plan Update website (www.future-marin.org).

FISCAL/STAFFING IMPACT:

The proposed amendment would not affect the Community Development Agency budget.

REVIEWED BY:

- | | |
|--|---|
| <input type="checkbox"/> Department of Finance | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

SIGNATURE:

Kristin Drumm
Senior Planner

Brian Crawford
Director

Cc: Neil Sorenson, Attorney
Riley Hurd, Seminary Neighborhood Association
Brian Swartz, Hart West
David Zaltsman, County Counsel

Attachments:

1. Board of Supervisors Resolution Adopting an Amendment to the 2007 Marin Countywide Plan, including Exhibit "A"
2. Exhibit "A"
3. Planning Commission Resolution Recommending that the Board of Supervisors Adopt an Amendment to the 2007 Marin Countywide Plan, including Exhibit A
4. Memorandum from Dave Nicholson, Department of Public Works, dated June 5, 2012
5. Proposed Map 2-12 Flooding
6. Proposed Map 2.3 Marinwood Land Use Policy Map
7. Proposed Map 1.1b North Novato Land Use Policy Map
8. Letter dated 8/24/2012 from the Law Offices of Neil Sorensen

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO.2012-

A RESOLUTION APPROVING AN AMENDMENT TO THE 2007 MARIN COUNTYWIDE PLAN

SECTION I: FINDINGS

WHEREAS, the Marin County Board of Supervisors hereby finds and declares the following:

- I. WHEREAS, the Marin County Board of Supervisors adopted the Marin Countywide Plan on November 6, 2007. The overarching theme presented in the Plan is planning sustainable communities.
- II. WHEREAS, the Marin Countywide Plan is a comprehensive, long term general plan for the physical development of Marin County and establishes an overall framework and set of goals for countywide development in the unincorporated area of the County.
- III. WHEREAS, on January 27, 2009, the Marin County Board of Supervisors adopted an amendment to the 2007 Marin Countywide Plan to address a number of technical corrections, which ranged from out of sequence program numbering and grammatical mistakes to minor text revisions to provide additional clarification and consistent use of terminology. The amendment also called for incorporating the Marin County Operational Area Hazard Mitigation Plan by reference into the Plan's Environmental Hazards section and making minor changes to the location of the Baylands Corridor boundary at the San Rafael Rock Quarry and San Quentin State Prison sites to more accurately reflect existing physical conditions.
- IV. WHEREAS, the Marin County Community Development Agency initiated the proposed amendment to the 2007 Marin Countywide Plan. The 2007 Marin Countywide Plan includes policies to protect and to preserve and enhance the natural environment of the County, and to strive for a high quality built environment. The project includes proposed technical and clerical corrections to certain Plan policies and maps to correct and improve their readability and clarity. The technical corrections includes minor grammatical changes, updates to the flooding and land use maps, new language to further expand the role of community plans, and other minor changes to provide additional clarification.
- V. WHEREAS, the Marin County Board of Supervisors certified a Final Environmental Impact Report (EIR) for the Marin Countywide prior to the adoption of the Marin Countywide Plan.
- VI. WHEREAS, the certified EIR evaluated the potential environmental effects that could result from implementation of the 2007 Marin Countywide Plan. The proposed amendment to the Marin Countywide Plan will not result in substantial changes in the Plan or in substantial changes to the circumstances under which the Countywide Plan will be undertaken or significant new information of substantial importance and will not result in new or more severe impacts or require new mitigation measures.
- VII. WHEREAS, the Marin County Planning Commission conducted a public hearing on August 27, 2012 and recommend that the proposed amendment to the 2007 Marin Countywide Plan be approved.

SECTION II: AMENDMENTS TO THE MARIN COUNTYWIDE PLAN

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors adopts the amendment to the 2007 Marin Countywide Plan contained in Exhibit "A" of this Resolution.

SECTION III: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 11th day of September, 2012 by the following vote to wit:

AYES:

NOES:

ABSENT:

STEVE KINSEY, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

Attest:

MATTHEW H. HYMEL
Clerk of the Board

Exhibit "A"

All changes are highlighted and shown in strike-out and underline format

1. **BIO-3.e Establish Clear Mitigation Criteria** (p. 2-26)

Modify Program BIO-3.e for a technical correction as follows:

BIO-3.e *Establish Clear Mitigation Criteria.* Amend the Development Code to incorporate wetland impact mitigation~~s~~ measures that accomplish the following objectives:.....

(Remainder of policy remains unchanged and is not shown.)

2. **Map 2-12 Flooding**

Assembly Bill 162 (AB 162) was signed in October 2007, which strengthens flood protections in California by requiring jurisdictions to update their respective land use elements to identify and annually review those areas covered by the general plan that are subject to flooding as identified by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources (Government Code Section 65300.2(a)). The bill also requires, upon the next revision of the housing element, on or after January 1, 2009, that the conservation element identify waterways and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

In May 2009 the Federal Emergency Management Agency (FEMA) revised its Flood Insurance Rate Maps (FIRM's) for Marin County, which were last updated in 1982. Countywide Plan Map 2-12, Flooding, shows the 100-year (1-percent annual chance flood) and 500-year (0.2-percent annual chance flood) flood zones. This map has been modified to reflect the revised flood zones to comply with AB 162. The Department of Public Works has reviewed the Countywide Plan with respect to AB 162 and has indicated it is in compliance with the bill, as documented in a memorandum dated June 5, 2012 (Attachment 3).

See Attachment 4 for Proposed Map 2-12 Flooding.

Map 2-12, as well any map in the Countywide Plan, is available for review through the County's Geographic Information System (GIS). The paper maps displayed in the Plan are representational only and show features from a point in time, while the GIS data is updated as new information becomes available. The scale and size of the Plan's paper maps may prevent clear or accurate visibility of some features or details. The GIS allows users to zoom in and out and pan around the map in more detail. Most of the data is also available for viewing on the web through MarinMap at <http://www.marinmap.org/dnn/>.

3. **AG-1.6 Limit Non-Agricultural Development** (p. 2-158)

The following technical correction to Policy AG-1.6 is proposed to clarify the intent as follows:

AG-1.6 Limit Non-Agricultural Development

Limit non-agricultural development in the Agricultural Production Zone to **allowed**

residential and accessory uses **that are** ancillary to and compatible with agricultural production. Require dwellings and other non-agricultural development to be limited in size and grouped together in building envelopes covering no more than 5% of the property or as determined through a site-specific analysis of agricultural and environmental constraints and resources, with the remainder preserved for agricultural production. Residential and non-agricultural development on very large parcels may be limited to less than 5% of the land area.

4. Relationship to Community Plans (p. 3-9)

Marin County is characterized by a diverse group of individual communities ranging from small coastal villages to more urbanized residential neighborhoods along the Highway 101 corridor. Over the years, development within 16 of these communities has been guided in part by community plans containing policies related to land use, design, transportation and environmental quality in that particular community. Community plans provide an important function in the planning process; however their role is not clearly defined in the Countywide Plan. To clarify this role and relationship with the Countywide Plan, modify the Background section of the Community Development section as follows:

Implementation tools such as the County Development Code are used to carry out the goals of the Countywide Plan. Some of the policies and programs in the Countywide Plan will require rezoning of individual properties for them to be consistent with the land use designations and the policies in the Plan. **Community plans also provide specific direction for communities in the unincorporated area of the county.** Many unincorporated communities are guided by community plans that provide specific direction regarding land use, transportation, community facilities, building design, and environmental quality, as well as issues unique to a particular community. **Such issues may include, but are not limited to: customized building and site design standards to protect key resources; protection of important ridgeline and view corridors; evaluation and refinement of the Ridge and Upland Greenbelt and Baylands Corridor; regulations concerning home size; affordable housing sites; hazards; evacuation routes; flooding; and bicycle and pedestrian circulation. A Community plan is considered part of the Marin Countywide Plan and sets forth goals, objectives, policies, and programs to address specific issues relevant to that particular community. Where there are differences in the level of specificity between a policy in the Community Plan and a policy in the Countywide Plan, the document with the more specific provision shall prevail.**

5. Add Definition of “Community Plan” to Glossary

The community plan is an important planning document which is referenced extensively throughout the Countywide Plan; however, it is not defined. Consistent with the existing definition of “Community Plan” found in Section 22.130.030 of the Marin County Code, add the following definition to the CWP Glossary as follows:

Community Plan. A planning document that sets forth goals, objectives, policies and programs to address specific issues related to a particular unincorporated community. Community plans are considered part of the Marin Countywide Plan.

6. CD-8.8 Establish Planned Designation Land Use Categories (p. 3-44)

Two new land use designations were added when the Countywide Plan was adopted in 2007 for the St. Vincent's/Silveira and the San Rafael Rock Quarry areas. A new designation was also initially proposed for the approximately 200-acre San Quentin site as a Planned Designation Transit Village Area (PD – Transit Village Area) in recognition of the site's potential as a proposed mixed use, multi-modal transit hub, which was described in the San Quentin Vision Plan. However, the State of California Department of Corrections does not have plans to discontinue using San Quentin as a prison in the foreseeable future. Policy CD-8.8 inadvertently includes this land use designation and should be deleted. The suggested modification to policy CD-8.8 is as follows:

CD-8.8 Establish Planned Designation Land Use Categories. The Planned Designation-Agricultural and Environmental Resource Area (PD-Agricultural and Environmental Resource Area) ~~Planned Designation Transit Village Area (PD-Transit Village Area)~~, and Planned Designation-Reclamation Area (PD-Reclamation Area) land use categories are established. The Planned Designation categories are intended to enable the planning of reuse projects at major opportunity sites in a manner that honors the site's location and unique natural, historic, aesthetic, and other characteristics, while promoting Countywide Plan policies regarding resource protection, affordable housing, and innovative transit-oriented and energy efficient design. In order to provide a forum for comprehensive, community-based planning, development in a Planned Designation category shall require approval of a specific plan pursuant to Government Code Section 65450 or a master plan pursuant to the County Development Code.

PD-Agricultural and Environmental Resource Area

Land Uses. The PD-Agricultural and Environmental Resource Area land use category is intended for reuse and development of the St. Vincent's and Silveira area. Potential uses include agriculture and related uses, residential development, education and tourism, places of worship, institutional, and small-scale hospitality uses, as described more fully in SV-2.3.

Standards of Building Intensity. Building-intensity standards for the PD-Agricultural and Environmental Resource Area are up to 221 dwelling units in addition to existing development, or equivalent amounts of nonresidential development based on impacts on peak-hour traffic.

PD-Reclamation Area

The PD-Reclamation Area land use category is intended for the ultimate reclamation of the San Rafael Rock Quarry and McNear's Brickyard site at the time the quarrying operations cease. As part of an updated reclamation plan, the ultimate reuse of the site will be identified, as will a time horizon as to when such reclamation would occur. While the Countywide Plan assumes that at such time as reclamation of the site occurs, it would be annexed to the City of San Rafael, if annexation should not take place, the Plan contemplates development under the County's jurisdiction through a Specific or Master Plan to determine residential densities, commercial floor area, and habitat protection areas. In general, uses would be primarily residential, a marina, and limited supporting commercial, as

reflected in the updated quarry reclamation plan.

Standards of Building Intensity. Building-intensity standards for the site reflect previous reclamation plans. Development of the site under the County's PD-Reclamation Area designation would be subject to an updated reclamation plan with a maximum residential density of 75 dwelling units unless otherwise determined by a County-approved traffic study.

Consistent zoning within the PD use categories:	ARP, BFC-ARP RMPC RMP RSP CP OP AP IP
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7. Policy CD-1.3 Reduce Potential Impacts (p. 3-12)

Modify Policy CD-1.3 as follows to clarify that affordable housing to very low or low income residents are not required to be calculated at the lowest end of the density range. This standard is clearer than existing language, which simply says: "multi family parcels identified in certified Housing Elements." Furthermore, the modification is consistent with existing language in the Development Code as well as other policies in the CWP. For example, policies CD-1.c and CD-5.e (see Items 8 and 9 below), CD-6.a, and TR-1.e exclude affordable housing to very low and low income residents from the lowest end of the density range. Finally, this modification would not apply to inclusionary housing.

Policy CD-1.3 Reduce Potential Impacts. Calculate potential residential densities and commercial floor area ratio (FAR) at the lowest end of the applicable range on sites with sensitive habitat, ~~or on sites~~ within the Ridge and Upland Greenbelt, ~~or the Baylands Corridor, or on sites~~ ~~properties~~ lacking public water or sewer systems. This requirement shall not apply to development of housing exclusively affordable to very low or low income residents, except for multi-family parcels identified in certified Housing Elements.

8. Program CD-1.c Reduce Potential Impacts (p. 3-13)

Modify Program CD-1.c to be consistent with the modifications made to Policy CD-1.3 and to existing Programs CD-5.e and CD-6.a, which refer to housing affordable to very low or low income residents. The modification is also consistent with existing CWP polices as discussed in Item 7 above.

PROGRAM CD-1.c *Reduce Potential Impacts.* Amend the Development Code to calculate potential residential density and commercial floor area ratio (FAR) at the lowest end of the applicable range on sites with sensitive habitat, ~~or on sites~~ within the Ridge and Upland Greenbelt, ~~or the Baylands Corridor, or on sites~~ ~~properties~~ lacking public water or sewer systems. This requirement shall not apply to development of housing exclusively affordable to very low or low income residents, except for multi-family parcels identified in certified Housing Elements.

9. Program CD-5.e Limit Density for Areas Without Water and Sewer Connections (p. 3-28)

Modify Program CD-5.e to be consistent with Policy CD-1.3 and Program CD-1.c as follows. See also the discussion for Item 7 above.

PROGRAM CD-5.e Limit Density for Areas Without Water and or Sewer Connections. Calculate density at the lowest end of the Countywide Plan designation density range for subdivisions new development proposed in areas without public water and/or sewer service. Densities for housing units, affordable to very low and low income residents, that are capable of providing adequate water and/or sewer services may be considered on a case-by-case basis. This requirement shall not apply to development of housing exclusively affordable to very low or low income residents.

10. Policy CD-8.6 Establish Residential Land Use Categories and Densities (p. 3-35)

Modify all references to footnote (1) in Policy CD-8.6 to clarify that the low end may be the minimum allowed subject to site specific environmental constraints that may result in a lower density or FAR, as follows:

¹Low end is minimum allowed required, except when the property is subject to site specific environmental constraints or other policies that result in a lower density or FAR being more appropriate.

11. Policy HAR-1.1 Preserve Historical Resources (p. 4-130)

Goal HAR 1 calls for the identification and protection of archaeological and historical resources, with policies HAR-1.1 through 1.5 providing policy direction. However, the policy titles only refer to historical resources. The policies should be modified to standardize the policy titles to include references to both archaeological and historical resources, consistent with Goal HAR 1, as follows:

HAR-1.1 Preserve Historical and Archaeological Resources. Identify archaeological and historical resource sites.

12. HAR 1.3 Avoid Impacts to Historical and Archaeological Resources (p. 4-130)

Goal HAR 1 calls for the identification and protection of archaeological and historical resources, with policies HAR-1.1 through 1.5 providing policy direction. However, in some cases the policy titles only refer to historical resources and do not include archaeological resources. The policy titles should be standardized to include references to both archaeological and historical resources, consistent with Goal HAR 1. In addition, consider adding “where feasible” to indicate that while it is not always possible to avoid damaging cultural resources, those impacts can be minimized.

HAR-1.3 Avoid Impacts to Historical and Archaeological Resources. Ensure that human activity avoids damaging cultural resource, where feasible.

13. HAR 1.d Require Archaeological Surveys for New Development (p. 4-131)

The Countywide Plan contains a number of policies and programs to reduce adverse changes to the significance of an archeological or paleontological resource. Program HAR-1.d requires an archaeological survey by a State-qualified and Federal Indians of Graton Rancheria (FIGR) recommended archaeologist for new development proposed in areas identified as potential resource locations on County sensitivity map. At the time of the CWP Update, the program was modified to include “and FIGR recommended” in part to be consistent with Senate Bill 18, the Tribal Consultation Requirements by the Governor’s Office of Planning and Research. The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to cultural places. The purpose of involving tribes in the early planning stages is to allow consideration of cultural places in the context of broad local land use policy, before individual site-specific, project-level land use decisions are made by a local government.

While the County consults with FIGR when there may be an impact on archaeological resources, the County is not required to confer with them for archaeologist recommendations. In light of recent efforts to simplify and streamline the regulatory process, the following modification is proposed:

HAR-1.d *Require Archaeological Surveys for New Development.* Require archaeological surveys conducted on site by a State-qualified ~~and FIGR recommended~~ archaeologist for new development proposed in areas identified as potential resource locations on the County sensitivity map (see Program HAR-1.a).

14. HAR 1.f Involve Appropriate Authorities (p. 4-131)

The following modification is proposed to replace the term development “proposals” with development “applications”, as well as clarify that potential impacts, rather than proximity, should trigger the referral of a development application to the appropriate representatives.

HAR-1.f *Involve Appropriate Authorities.* Refer development ~~proposals~~ ~~applications on or near that could potentially affect~~ cultural resources ~~sites~~ to the California Archaeological Inventory, the Northwest Regional Office of the California Historical Resources Information System, and/or Native American representatives, as appropriate.

15. Program Implementation Tables

Modify footnote 1 to define the term “Ongoing” for each of the following Program Implementation Figures as follows:

¹Time Frames include: Immediate (0-1 years); Short term (1-4 years); Med. Term (4-7 years); Long term (over 7 years); and Ongoing (~~existing programs already in progress whose implementation is expected to continue into the foreseeable future~~).

Program Implementation Figures:

Figure 2-4 Biological Resources Program Implementation, p. 2-48

Figure 2-6 Water Resources Program Implementation, p. 2-66

- Figure 2-8 Environmental Hazards Program Implementation, p. 2-86
- Figure 2-16 Atmosphere and Climate Program Implementation, p. 2-111
- Figure 2-19 Open Space Program Implementation, p. 2-130
- Figure 2-22 Trails Program Implementation, p. 2-144
- Figure 2-22 Agriculture and Food Program Implementation, p. 2-173

- Figure 3-6 Community Development Program Implementation, p. 3-50
- Figure 3-10 Community Design Program Implementation, p. 3-73
- Figure 3-19 Energy and Green Building Program Implementation, p. 3-94
- Figure 3-21 Mineral Resource Program Implementation, p. 3-104
- Figure 3-28 Housing Program Implementation, p. 3-135
- Figure 3-38 Transportation Program Implementation, p. 3-170
- Figure 3-45 Noise Program Implementation, p. 3-191
- Figure 3-50 Public Facilities and Services Program Implementation, p. 3-213

- Figure 4-6 Economy Program Implementation, p. 4-21
- Figure 4-31 Child Care Program Implementation, p. 4-31
- Figure 4-12 Public Safety Program Implementation, p. 4-45
- Figure 4-14 Community Participation Program Implementation, p. 4-55
- Figure 4-17 Diversity Program Implementation, p. 4-64
- Figure 4-19 Education Participation Program Implementation, p. 4-75
- Figure 4-21 Environmental Justice Program Implementation, p. 4-85
- Figure 4-31 Public Health Program Implementation, p. 4-107
- Figure 4-35 Arts and Culture Program Implementation, p. 4-124
- Figure 4-39 Historical and Archaeological Resources Program Implementation, p. 4-138
- Figure 4-44 Parks and Recreation Program Implementation, p. 4-150

16. Indicators and Benchmarks: Energy and Green Building (p. 3-93)

Modify the benchmark for energy use per capita countywide in the Energy and Green Building section (p. 3-93) from 11,072 kWh to 4,852 kWh per employee in 2000. Calculations supporting the original 11,072 kWh figure cannot be documented. Existing data shows County-operated buildings used 11,024,015 kWh in 2000 where there were 2,272 FTE employees, resulting in 4,852 kWh per employee. This revised figure also corresponds with the County’s per employee usage for the following years: 4,760 kWh/employee in 2005; 5,038 kWh/employee in 2007; and 5,299 kWh/employee in 2008.

Indicators	Benchmarks	Targets
Energy use per employee in County-operated buildings.	4,852 11,072 kWh per employee in 2000.	Lower energy consumption per employee by 2020.

17. Marinwood Land Use Policy Map 2.3

Revise Map 2.3 Marinwood Land Use Policy Map to update the land use designation for the following parcels from HOD to PF-SF6, as shown in the table below. These parcels were incorrectly assigned the HOD designation, which is not a recognized land use designation. The HOD is the Housing Overlay Designation, which is an overlay to encourage workforce housing, and is described on Maps 3-2a and 3-2b in the Community

Development section. This site is the location of the existing Dixie Elementary School/Marin Waldorf School and is zoned PF-RSP-5.8 (Public Facilities, Residential Single Family Planned District, 5.8 units per acre). The consistent land use designation is PF-SF6. See Attachment 5.

Parcel	Zoning	Existing Land Use Designation	Proposed Land Use Designation
164-022-10	PF-RSP-5.8	HOD	PF-SF6
164-022-11	PF-RSP-5.8	HOD	PF-SF6
164-041-14	PF-RSP-5.8	HOD	PF-SF6
164-074-08	PF-RSP-5.8	HOD	PF-SF6

18. North Novato Land Use Policy Map 1.1b

Revise the North Novato Land Use Policy Map 1.1b to update the land use designations for the following parcels as shown in the table below. Parcel 125-190-70 is located immediately north of the existing runway at the Gross Field Airport and is proposed to include part or most of the 1,100 foot runway and taxiway extension for the airport. The parcel is zoned RCR, M3 with an existing land use designation of AG1. Parcel 125-190-76 is located south of the airport and Black John Slough on the bank of Rush Creek. It is owned by Marin County Flood Control and is zoned M3 with a land use designation of AGC1. The proposed land use designation is OS. Parcel 125-190-79 is located northwest of the Gross Field Airport and adjacent to the proposed runway extension and the Northwest Pacific Railroad corridor. This parcel, publicly owned by the California Department of Fish and Game, is characterized by reclaimed saltwater tidal marshlands and is zoned RCR, M2 with a combined land use designation of OS, AG1, and RC. See Attachment 6.

Parcel	Zoning	Existing Land Use Designation	Proposed Land Use Designation
125-190-70	RCR, M3	AG1	PF-IND
125-190-76	M3	AGC1	OS
125-190-79	RCR, M3	OS, AG1, RC	OS

19. Land Use Maps

Modify all maps within the Land Use Map set to include a reference to the community planning areas or the community plan as follows:

Note: Please also reference the respective Planning Area policies and Community Plan for additional policy guidance.

In addition, modify the following maps to update the legend to refer to “**Community Plan Boundary**” in place of “Community Boundary”:

- Map 1.3 Indian Valley Land Use Policy Map
- Map 1.5 Black Point Land Use Policy Map
- Map 5.1.1 Kentfield Land Use Policy Map (Map 1 of 2)

- Map 5.1.2 Kentfield Land Use Policy Map (Map 2 of 2)
- Map 6.1.0 Tamalpais Area Land Use Policy Map Index
- Map 6.1.1 Tamalpais Area Land Use Policy Map, Muir Woods Park (Map 1 of 5)
- Map 6.1.2 Tamalpais Area Land Use Policy Map, Homestead Valley (Map 2 of 5)
- Map 6.1.3a Tamalpais Area Land Use Policy Map (Map 3 of 5)
- Map 6.1.3b Tamalpais Area Land Use Policy Map (Map 4 of 5)
- Map 6.1.4 Tamalpais Area Land Use Policy Map (Map 5 of 5)
- Map 6.2 Marin City Land Use Policy Map
- Map 6.3.0 Strawberry Lane Use Map Index
- Map 6.3.1 North Strawberry & Alto Land Use Policy Map (Map 1 of 2)
- Map 6.3.2 South Strawberry Lane Use Policy Map (Map 2 of 2)
- Map 7.1 Dillon Beach Land Use Policy Map
- Map 7.2 Tomales Land Use Policy Map
- Map 7.3.0 East Shore Land Use Policy Map Key
- Map 7.3.1 East Shore Land Use Policy Map (Map 1 of 2)
- Map 7.3.2 East shore Land Use Policy Map (Map 2 of 2)
- Map 7.5 Point Reyes Station Land Use Policy Map
- Map 7.6 Inverness Land Use Policy Map
- Map 7.9 Nicasio Land Use Policy Map
- Map 7.10.0 San Geronimo Land Use Policy Map (Map 1 of 5)
- Map 7.10.1 Woodacre Land Use Policy Map (Map 2 of 5)
- Map 7.10.2 San Geronimo Land Use Policy Map (Map 3 of 5)
- Map 7.10.3 Forest Knolls Land Use Policy Map (Map 4 of 5)
- Map 7.10.4 Lagunitas Land Use Policy Map (Map 5 of 5)
- Map 7.11 Bolinas Land Use Policy Map
- Map 7.12 Stinson Beach Land Use Policy Map
- Map 7.13 Muir Beach Land Use Policy Map

Modify the following maps to update the legend to refer to “**Community/Community Plan Boundary**” in place of “Community Boundary”:

- Map 1.0 Planning Area 1.0 (Novato) Land Use Map Index
- Map 6.0 Planning Area 6.0 (Richardson Bay) Land Use Map Index
- Map 7.0 Planning Area 7.0 (West Marin) Land Use Policy Map Index
- Map 7.4.1 Northwest Marin County Land Use Policy Map (Map 1 of 2)
- Map 7.4.2 Northwest Marin County Land Use Policy Map (Map 2 of 2)
- Map 7.8 Southwest Marin County Land Use Policy Map

20. Introduction (p. 1-21)

Amend the Land Use Categories section in the Introduction to include a reference to the community plans as follows:

The Countywide Plan establishes and maps land uses according to the following categories. **Additional policy guidance can be obtained from the various local community plans.**

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN AMENDMENT TO THE 2007 MARIN COUNTYWIDE PLAN

SECTION I: FINDINGS

WHEREAS, the Marin County Planning Commission hereby finds and declares the following:

- I. WHEREAS, the Marin County Board of Supervisors adopted the Marin Countywide Plan on November 6, 2007. The overarching theme presented in the Plan is planning sustainable communities.
- II. WHEREAS, the Marin Countywide Plan is a comprehensive, long term general plan for the physical development of Marin County and establishes an overall framework and set of goals for countywide development in the unincorporated area of the County.
- III. WHEREAS, on January 27, 2009, the Marin County Board of Supervisors adopted an amendment to the 2007 Marin Countywide Plan to address a number of technical corrections, which ranged from out of sequence program numbering and grammatical mistakes to minor text revisions to provide additional clarification and consistent use of terminology. The amendment also called for incorporating the Marin County Operational Area Hazard Mitigation Plan by reference into the CWP’s Environmental Hazards section and making minor changes to the location of the Baylands Corridor boundary at the San Rafael Rock Quarry and San Quentin State Prison sites to more accurately reflect existing physical conditions.
- IV. WHEREAS, the Marin County Community Development Agency initiated the proposed amendment to the 2007 Marin Countywide Plan. The 2007 Marin Countywide Plan includes policies to protect and to preserve and enhance the natural environment of the County, and to strive for a high quality built environment. The project includes proposed technical and clerical corrections to certain CWP policies and maps to correct and improve their readability and clarity. The technical corrections includes minor grammatical changes, updates to flooding and land use maps, new language to further expand the role of community plans, and other minor changes to provide additional clarification.
- V. WHEREAS, the Marin County Board of Supervisors certified a Final Environmental Impact Report (EIR) for the Marin Countywide Plan prior to the adoption of the 2007 Marin Countywide Plan.
- VI. WHEREAS, the certified EIR evaluated the potential environmental effects that could result from implementation of the 2007 Marin Countywide Plan. The proposed amendment to the Marin Countywide Plan will not result in substantial changes in the Plan or in substantial changes to the circumstances under which the Countywide Plan will be undertaken or significant new information of substantial importance and will not result in new or more severe impacts or require new mitigation measures.
- VII. WHEREAS, the Marin County Planning Commission conducted a public hearing on August 27, 2012 to consider the proposed amendment to the Marin Countywide Plan.

SECTION II: AMENDMENT TO THE MARIN COUNTYWIDE PLAN

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission reports and recommends that the Marin County Board of Supervisors adopt an amendment to the 2007 Marin Countywide Plan contained in Exhibit "A" of this Resolution.

SECTION III: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 27th day of August, 2012 by the following vote to wit:

AYES: Katherine Crecelius, Don Dickenson, Wade Holland, Joan Lubamersky, Peter Theran

NOES: Randy Greenberg

ABSENT: Mark Ginalski

JOAN LUBAMERSKY, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Debra Stratton
Recording Secretary

INTER-OFFICE MEMORANDUM
DEPARTMENT OF PUBLIC WORKS

DATE: June 5, 2012
TO: Berenice Davidson
FROM: Dave Nicholson
RE: Marin County Floodplain Code §23.09 as it Pertains to AB-162 and CPW Updating

The following is a narrative outlining Marin County compliance with AB-162 Code Section 65302 as it specifically pertains to flood hazard avoidance (see the section language on attached sheet). Note that Marin County Code (MCC)§23.09.010 addresses statutory authorization for the enforcement of Government Code Section 65302 (Ord. 3293§1, 1999).

§65302.d.3

Water resources are in Section 2.5 of the Countywide Plan (CWP) and Map 2-7 show watersheds, creeks and water bodies. Also in the CWP, flood corridors are shown on Map 2-12 and riparian habitats are addressed in the CWP BIO-4, Stream Conservation Area beginning on Page 2-28. There are no known groundwater recharge systems within Marin County and stormwater management is addressed in CWP BIO-4.20, Page 2-35 and under CWP WR-2.6, Page 2-60.

§65302.g.2

: (A) Flood hazards are defined on FEMA Flood Insurance Rate Maps (FIRMs). Marin County Code (MCC)§23.09.011(4) adopts FEMA FIRMs and all subsequent FIRM amendments to identify and delineate flood hazard areas within the county. Additionally, pursuant to (A)(xi), special flood districts in flood-prone areas within the county have been established and flood control improvements are administered by the Marin County Flood Control Division. See also CWP Map 2-12, Flooding. No changes to the status of dams throughout the county have occurred to date. As a result, Map 2-12 in the CWP showing dam failure inundation is current.

: (B) MCC§23.09, Floodplain Management establishes adopted policies and codes that regulate development and redevelopment within flood-prone areas in Marin County. Under MCC§23.09.011, Findings of Fact, the Floodplain Management regulations are based on large known floods to have occurred and on FEMA-established flood boundary maps. Also see CWP Goal EH-3, Page 2-77.

: (C) Implementation and enforcement of the flood hazards regulations are conducted by DPW engineer staff and managers. Through the discretionary review and building permit plan-checking process, DPW engineers review development and re-development projects, identify those that may be affected by flood hazards, and implement the requirements spelled out in MCC§23.09 to ensure compliance with the code requirements by ensuring that development plans meet the minimum regulations and by conducting site inspections.

§65302.g.3




No revisions were found to be necessary for the safety element with respect to flood hazards.

§65302.g.4





Marin County has established a floodplain ordinance [MCC§23.09] that is based on and approved by FEMA and substantially complies with this section. See Goal EH-3 on Page 2-77 and subsequent Implementing Programs on Page 2-78.

MAP 2-12 PROPOSED FLOODING



Legend

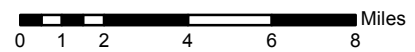
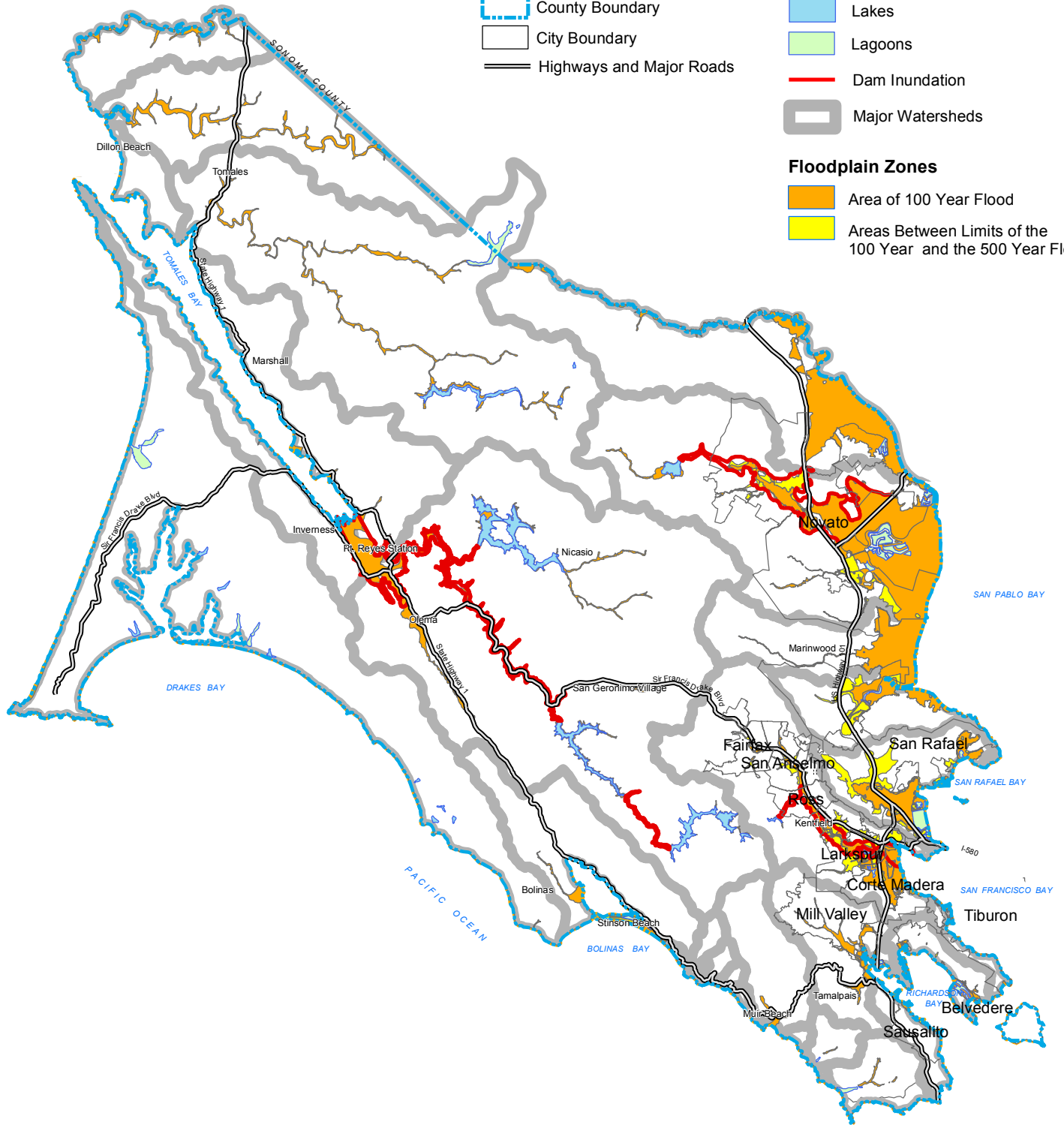
-  County Boundary
-  City Boundary
-  Highways and Major Roads

Water Bodies

-  Lakes
-  Lagoons
-  Dam Inundation
-  Major Watersheds

Floodplain Zones

-  Area of 100 Year Flood
-  Areas Between Limits of the 100 Year and the 500 Year Flood



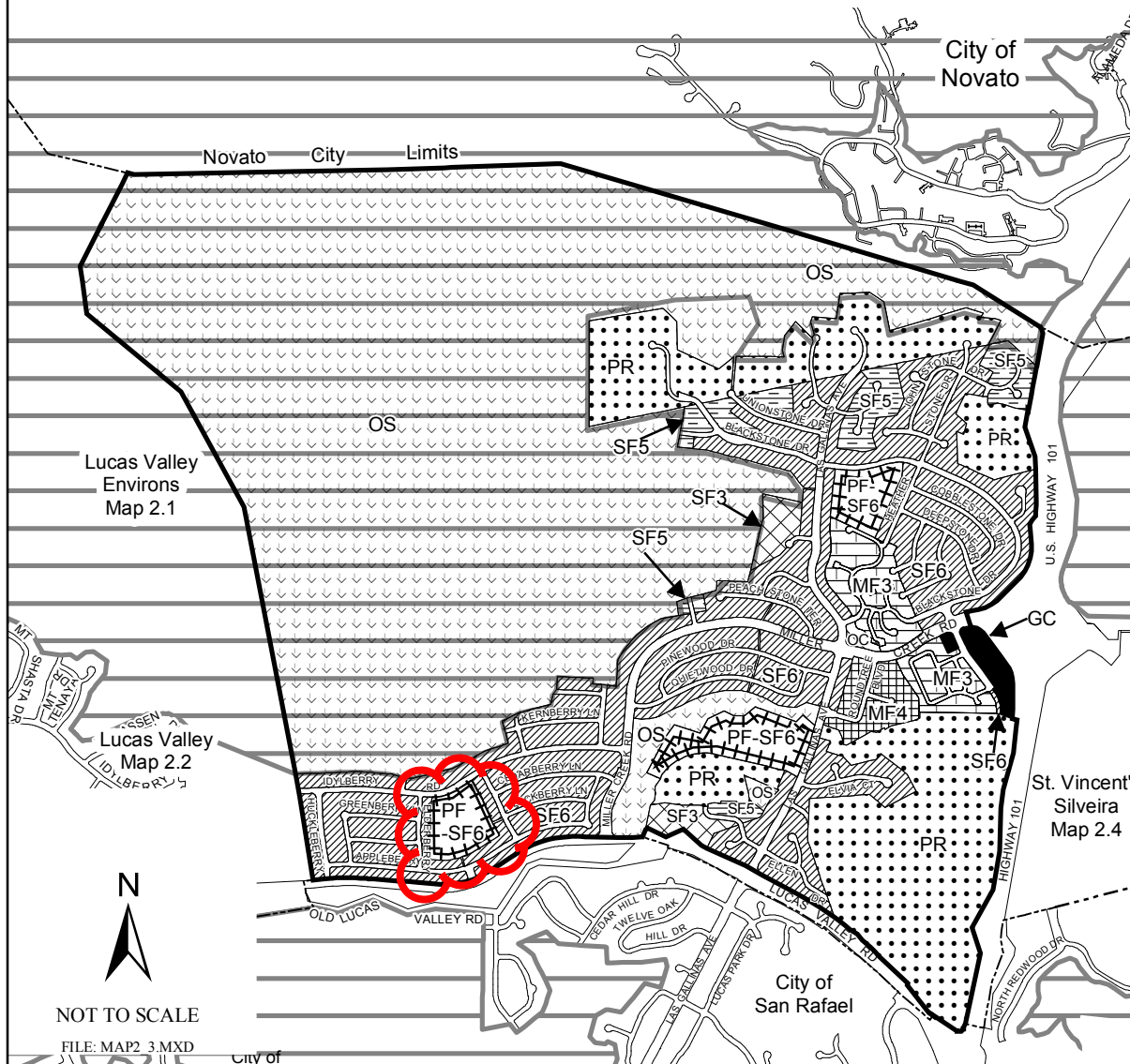
THIS MAP WAS DEVELOPED FOR GENERAL PLAN PURPOSES. THE COUNTY OF MARIN IS NOT RESPONSIBLE OR LIABLE FOR USE OF THIS MAP BEYOND ITS INTENDED PURPOSE.

SOURCE: National Flood Insurance Program Q3 Flood Data

Date: August 27, 2012

File: Flood 2-12_amend.mxd

MAP 2.3 Proposed Marinwood Land Use Policy Map



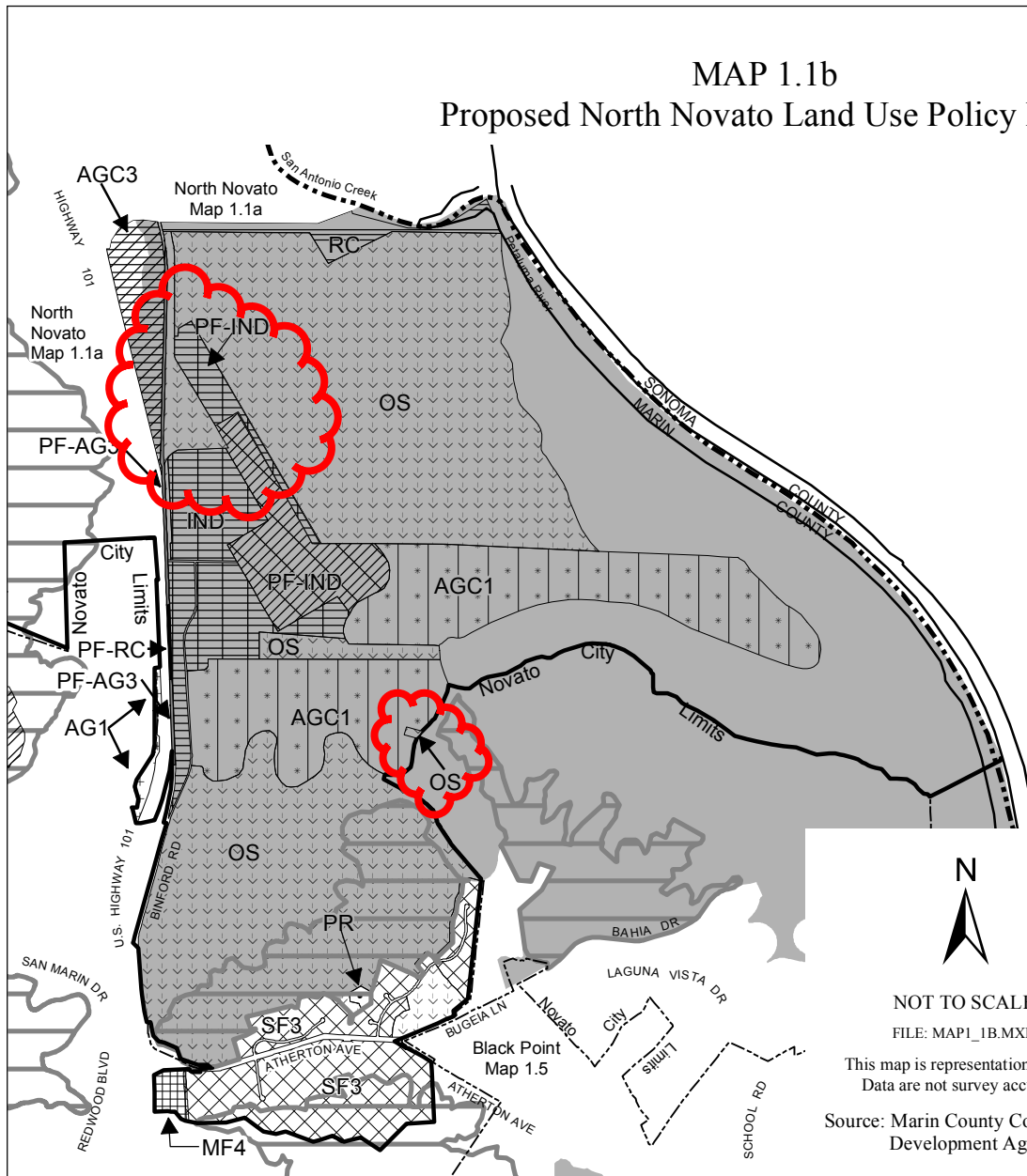
Legend

- Single Family**
 - SF6 4-7 units/acre
 - SF5 2-4 units/acre
 - SF3 1 unit/1-5 acres
 - Public Facility / Single Family**
 - PF-SF6 4-7 units/acre
 - Multi Family**
 - MF4 11-30 units/acre
 - MF3 5-10 units/acre
 - Planned Residential**
 - PR 1 unit/1-10 acres
 - General Commercial / Mixed Use**
 - GC F.A.R. = 0.10 TO 0.40
 - Office Commercial / Mixed Use**
 - OC F.A.R. = 0.10 TO 0.20
 - OS Open Space
 - Ridge and Upland Greenbelt Areas (See Community Design Policy DES-4.1)
 - Community Boundary
 - City/Town Limit
- F.A.R. = Floor Area Ratio

Source: Marin County Community Development Agency


This map is representational only.
Data are not survey accurate.

MAP 1.1b Proposed North Novato Land Use Policy Map



Legend

- Single Family
 - SF3 1 unit/1-5 acres
 - Multi Family
 - MF4 11-30 units/acre
 - Planned Residential
 - PR 1 unit/1-10 acres
 - Recreational Commercial
 - RC F.A.R. = 0.01 TO 0.03
 - Industrial
 - IND F.A.R. = 0.04 TO 0.35
 - Public Facility / Industrial
 - PF-IND F.A.R. = 0.04 TO 0.35
 - Public Facility / Recreational Commercial
 - PF-RC F.A.R. = 0.01 TO 0.30
 - Public Facility / Agricultural
 - PF-AG3 1 unit/1-9 acres
 - OS Open Space
 - Agricultural
 - AG1 1 unit/31-60 acres
 - Agriculture and Conservation
 - AGC3 1 unit/2-9 acres
 - AGC1 1 unit/31-60 acres
 - Mineral Resource Area
 - Ridge and Upland Greenbelt Areas
(See Community Design Policy DES-4.1)
 - Baylands Corridor
 - County Boundary
 - Community Boundary
 - City/Town Limit
- F.A.R. = Floor Area Ratio


 NOT TO SCALE
 FILE: MAP1_1B.MXD
 This map is representational only.
 Data are not survey accurate.
 Source: Marin County Community
 Development Agency



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NEIL SORENSEN

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EMAIL neil@sorensenlaw.com

August 24, 2012

Joan Lubamersky, Chair
and Members of the Marin County
Planning Commission
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

Re: Amendments to Countywide Plan

Dear Chair Lubamersky and Members of the Planning Commission:

This office represents the Golden Gate Baptist Theological Seminary, located on the Strawberry Peninsula. The purpose of this letter is to comment on, and object to, the proposed "technical" corrections to the Marin Countywide Plan to be heard at your August 27, 2012 meeting. Our comments and objections relate to items 4, 5, 19 and 20 as contained in Exhibit "A" to the proposed Resolution. These items seek to amend the Countywide Plan to provide that Community Plans are part of the Countywide Plan and that if any inconsistency results, the "more restrictive" provision shall apply. More specifically our comments are as follows:

1. The Amendments are Not Minor and Technical in Nature.

The proposed amendments are hardly minor and technical in nature. Some of the amendments would be in direct conflict with the recent proposal by the Board of Supervisors to update Community Plans and bring them into alignment with the Countywide Plan. These amendments seem to be doing the exact opposite – bringing the Countywide Plan up to date with the out of date Community Plans. Moreover, the proposed amendments are in conflict with existing policies in the Countywide Plan including certain housing element policies, the County's priority area development policies, and other policies as more fully described below.

2. The Amendments are Inconsistent With a Number of Countywide Plan Policies and Would Render the Countywide Plan Internally Inconsistent.

California statutory and case law mandate that a general plan be internally consistent, and also consistent with all regulatory controls including community plans, zoning ordinances and subdivision ordinances.

"The requirement of consistency is the lynch pin of California's land use and development laws. It is the principle which infused the concept of planned growth with the force of law." de Bottari v. City of Norco (1985) 171 Cal.App.3d 1204, 1213.

Moreover, Government Code Section 65359 requires that once a general plan is in place, any specific plan or "other plan" of a county that is applicable to the same area or matters affected by the general plan shall be reviewed and amended as necessary to make the other plan consistent with the general plan (emphasis added). Thus, the law provides that the Community Plans should be amended to comply with the recently adopted Countywide plan (not the other way around).

The California Attorney General described "consistency" as follows:

"The term 'consistent with' is used interchangeably with 'conformity with.' The courts have held that the phrase 'consistent with' means 'agreement with; harmonious with;' Webster defines 'conformity with' as meaning 'harmony, agreement when used with.' The term 'conformity' means in harmony therewith or agreeable to." 58 Ops.Cal.Atty.Gen. 21 at 25 (1975).

California Government Code Section 65300.5 mandates that the general plan and elements and parts thereof shall be internally consistent. In Sierra Club v. Board of Supervisors (1981) 126 Cal.App.3d 698, 703-704, the California Court of Appeal held that a general plan provision which allowed the land use element to take precedence over the open space element where there was a conflict was held to be inconsistent with the requirements for internal plan consistency. Moreover, a general plan is internally inconsistent when one required element impedes or frustrates another element or when one part of an element contradicts another part of the same element. Concerned Citizens of Calaveras Co. v. Board of Supervisors (1985) 166 Cal.App.3d 90 at 103.

Here, the staff is proposing to amend the General Plan (see items 4 and 5 of Exhibit "A") to specifically state that "Community plans are considered part of the Marin Countywide Plan" and to state that "If conflicts occur between the policies of the Community Plan or the Countywide Plan, the 'more restrictive provision' shall apply." Besides being incredibly vague (see below) this provision will set up and create tremendous inconsistencies in the Countywide Plan.

As you know, the staff has presented to the Board of Supervisors a plan to update a number of the older Community Plans that are admittedly out of date and inconsistent with the Countywide Plan. This is consistent with the mandate of Gov. Code Section 65359. Specifically stating in the Marin Countywide Plan (apparently for the first time) that the out of date Community Plans are considered part of the Marin Countywide Plan, will

clearly create a number of inconsistencies in the Countywide Plan. Some of the Community Plans were adopted in the early 1970's and are woefully out of date.

Given the lack of notice and the lack of time to adequately analyze the proposed amendments and their affect on the Countywide Plan and its consistency with Community Plans, it is difficult to identify specific examples; however, in the limited time available, the following inconsistencies were identified:

- Inconsistency with Countywide Plan Policies Relating to Second Units. While the Countywide Plan contains a number of policies encouraging second units (HS-3.24 through HS-3.28), many of the Community Plans make no mention whatsoever of second units. See 1973 Strawberry Community Plan, which contains policy language (page 2 of 1983 amendment) that favors detached single family dwellings and seemingly prohibits second units:

"If new development is to occur, it can strengthen this character by providing the traditional setting of detached single family units within any new development proposed for the area. Development plan proposals should give the highest priority to incorporating detached single family homes into the plan."

Since the Strawberry Community Plan makes no mention of second units, and even favors single family dwellings, it would apparently be the more restrictive policy document and would control over the Countywide Plan – thereby prohibiting second units.

- Inconsistency with Housing Overlay Designation (HOD). Countywide Plan policy CD-2.3 establishes a housing overlay designation on specific parcels of property, which are shown on maps 3-2A and 3-2B and also in Figure 3-3. In many Community Plan areas, the housing opportunity designation is inconsistent with the Community Plan designation for the same site. For example, in the Countywide Plan the Strawberry Shopping Center is designated for up to 100 units of housing. However, the Strawberry Community Plan makes no mention of this increase in density for the Strawberry Shopping Center. Again, since the "most restrictive provision" would apply, the Strawberry Community Plan would control over the Countywide Plan creating an internal inconsistency.

These inconsistencies may also frustrate or impede the County's ability to meet its regional housing needs (RHNA numbers) under state housing laws. The County has relied on second units and Housing Overlay Designations in its housing element to meet its RHNA allocations under state law. Government Code Sections 65584 et seq.

3. The Phrase "Most Restrictive" is Vague, Subject to Varied Interpretation and Defeats the Intent of the Recently Adopted Countywide Plan.

Item 4 of Exhibit "A" attempts to resolve conflicts between the outdated Community Plans and the Countywide Plan by mandating that "the most restrictive provisions" shall apply. Adoption of such wording in the Countywide Plan will create more problems than it potentially solves.

First, the phrase is vague and open to wide ranging interpretations. Who decides what is "more restrictive" and using what criteria? Should the Countywide Plan policies be used to decide what is "more restrictive" or should the Community Plan policies be used to determine what is "more restrictive?"

Second, it fails to recognize the statutory priority of the more recently adopted Countywide Plan (Gov Code 65359). In many cases, where a Community Plan is quite old (e.g. Bolinas 1978 or Strawberry 1973), the County has adopted revised and updated Countywide Plan at least two times since the Community Plan was adopted. Presumably, the Planning Commission and Board of Supervisors intended the more recently adopted plan to control. It would be hard to argue that policies adopted in 1973 are more current and should control over policy language adopted in 2007 in the current Countywide Plan.

4. Lack of Proper Notice.

State law requires the County "provide opportunities for involvement of citizens" in the General Plan amendment process. Government Code Section 65351. Indeed, the legislature has recognized the importance of public participation in the planning process, including the General Plan amendment process, so that the public is afforded an opportunity to meaningfully respond to proposed policies and actions. Government Code Section 65033.

As a major property owner in the County who would be affected by the proposed changes and an institution that has been in Marin County since the 1950's, common courtesy and due process of law demand that the Seminary receive notice of this type of far reaching Countywide Plan amendment. No such notice was provided to the Seminary and the Seminary only learned of the proposed amendments by happenstance.

It is requested that the hearing be re-noticed for a future meeting and that all major property owners in the County be given written notice of the proposed amendments. As discussed more fully herein, they are not "minor and technical" in nature and could have numerous far reaching consequences, and are potentially unlawful.

5. Conclusion.

The proposed amendments are ill-timed, ill-conceived, and would render the Countywide Plan internally inconsistent, and in violation of state law. Additionally, improper notice was provided of the proposal. For these reasons, it is respectfully requested that your Commission send this proposal back to the drawing board, or deny it outright.

Sincerely,

A handwritten signature in black ink, appearing to read 'Neil Sorensen', with a long horizontal line extending to the right.

NEIL SORENSEN

NS/mjs

cc: Gary Groat, Golden Gate Baptist Theological Seminary
Hart Marin
David Preiss, Holland & Knight
David Zaltsman, Deputy County Counsel
Brian Crawford, Marin Community Development Agency
Tom Lai, Marin Community Development Agency
Kristin Drumm, Marin Community Development Agency