west marin environmental action committee

July 7, 2016

Jack Ainsworth, Executive Director
California Coastal Commission
Via electronic mail

Subject: Comments on Marin County's Proposed Local Coastal Program

Dear Mr. Ainsworth,

The Environmental Action Committee of West Marin ("EAC") respectfully submits the following comments on Marin County ("County")'s proposed Local Coastal Program amendments including *Marin County's Local Coastal Program Land Use Plan, Board of Supervisors Adopted August 25, 2015 & April 19, 2016* ("LUPA") and the County's Implementation Plan Amendments ("IPA"). We will refer to both the LUPA and the IPA as the 2016 Proposed Local Coastal Plan Amendments ("LCPA"). We have tried to include all of our current concerns regarding the LCPA in this letter, but this list is not exhaustive and we may supplement our comments as needed.

Since 2009, EAC has been continuously engaged throughout the County Local Coastal Plan amendment process. We have reviewed thousands of pages of draft development code and policy language, staff reports, and errata. We have participated in countless hours of public workshops, meetings, and hearings. EAC is heavily invested in this process and is committed to ensuring that the County maintains strong coastal policies that protect our priority coastal resources. Like the Coastal Commission ("Commission") and its staff ("Commission staff"), EAC also wants to ensure that the LCPA is consistent with the Coastal Act.

Although the LCPA advances resource protections in some instances, in many key policy and implementation sections, it is inconsistent with the Coastal Act or diminishes the coastal resource protections contained in the Certified Local Coastal Program ("Certified LCP"). Our comments focus on these critical deficiencies. Without very substantial modifications, which are necessary to overcome these defects, the Commission cannot certify the County's submission.

For ease of reference, we have organized this comment letter by nine areas of the LCPA, which are of particular concern to EAC: (I) agriculture, (II) biological resources, (III) environmental hazards, (IV) water resources, (V) public facilities and services, (VI) permit administration, (VII) visual resources, (VIII) appeals jurisdiction, and (IX) definitions.

I. Agriculture (AG)

Summary of AG Concerns

1) The LUPA deletes mandatory consideration of "all contiguous lots under common ownership" and replaces it with discretionary language "may consider." The mandatory language should be added back in.

2) The LCPA would allow substantial amounts of new commercial and industrial uses on C-APZ lands without any requirement that development be "necessary for" agricultural production.

3) There are inconsistencies between the requirements for Ag processing and Ag retail sales facilities to be considered principally permitted.

4) The LCPA extends developments entitlements to an unlimited number of "operators" and "lessees" in addition to the property owner.

5) The LUPA impermissibly opens the door to new residential development on C-APZ lands in exchange for an affirmative agricultural easement.

6) The deletion of the requirement that intergenerational homes not require any new road construction is problematic.

7) The definition of "ongoing agriculture" is inconsistent with the Coastal Act's definition of development. For example, the LCPA expands the definition of "ongoing agriculture" from existing agricultural production to a variety of agricultural uses. It also does so without recognition of permit streamlining available through the *de minimis* waiver provision.

8) The deletion of the principally permitted use ("PPU") standards in Table 5-1 is problematic. The standards are necessary for the determination of the permit category for proposed development.

9) The additional agricultural entitlements should be subject to public hearings. Alternatively, no fee should be charged for appealing administrative approval of these uses.

10) The existing Categorical Exclusion ("CatEx") Orders should be amended to:
    a. Delete vineyard development from the category of agricultural development excluded from the requirement to apply for a Coastal Development Permit ("CDP").
    b. Require Design Review for agricultural structures subject to

CatEx Orders to ensure protection of public views.

c. Provide for public hearing(s), in addition to Design Review, so public input can be fully brought to bear on visual resource protection.

11) The LCPA removes the "and necessary for agricultural production" requirement for agricultural structures and agricultural uses in C-APZ. The logic of changing this to "or necessary for" is flawed and should be rejected. Furthermore, section 22.65.040 of the IPA ignores the Commission's prior clear distinction between "agricultural use" and "agricultural production."

12) The County's Ordinance regarding viticulture is inconsistent with the Coastal Act and should not be used as the standard. Furthermore, viticulture should be a conditional use.

Analysis of AG Concerns

1) The LUPA deletes mandatory consideration of "all contiguous lots under common ownership" and replaces it with discretionary language "may consider." The mandatory language should be added back in.

The relevant excerpts are as follows:

C-AG-5 Agricultural Dwelling Units

Policy C-AG-5 deletes the imperative: "shall consider all contiguous properties under the same ownership…"

C-AG-2.B "Conditional uses in the C-APZ zone include …

In policy C-AG-2.B, the County (and the Commission on appeal) may include all contiguous properties under the same ownership when reviewing a Coastal Permit application."

As can be seen in the language above, in the LUPA, the requirement to consider all contiguous lots under common ownership has been deleted and instead the County has given itself discretion on when to do so. The mandatory language should be re-added in place of the discretionary language.

2) The LCPA would allow substantial amounts of new commercial and industrial uses on C-APZ lands without any requirement that development be "necessary for" agricultural production.

The Commission staff's letter dated August 21, 2015 is clear direction that the "necessary for" requirement is fundamental to Coastal Act compliance. The Commission staff's August 21, 2015 letter states on page 3:

> We oppose the County staff proposed language changes to the Commission's previously adopted suggested modifications, especially since the weakened standard is not appropriate for structural development that would be considered a principally permitted use in the agricultural production zone. . . . the notion that all structural development within an agricultural production zoning district must be necessary for agricultural production is a core Coastal Act and land use planning tenet and must be stated as such in the County's agricultural protection policies.

The County seeks to ignore that the definition of "agriculture" has been greatly expanded from the Certified LCP's definition, and thus the "necessary for" requirement provides safeguards and limits for the potential significant new allowance of development in the C-APZ district. In policy C-AG-7.A.1, the language "and necessary for" *must be required* in addition to the other three factors (in policy C-AG-7.A.2-4) for all accessory structures and activities on C-APZ lands. Revise policy C-AG-7.A.1 to the following (add the underlined portion): "Permitted development shall protect and maintain <u>and be necessary for</u> renewed and continued agricultural production…."

3) There are inconsistencies between the requirements for Ag processing and Ag retail sales facilities to be considered principally permitted.

IPA section 22.32.027.A.3 allows retail sale of agricultural products only from property that the operator owns in Sonoma or Marin County. Section 22.32.026.A.2 is much broader and allows processing as a PPU on a Marin coastal zone property of agricultural products that are derived from any property anywhere in Marin or Sonoma Counties.

There is a real inconsistency here. EAC suggests that if 22.32.026A.2 agricultural processing was limited in the same way that 22.32.027A.3 limits retail sales, then a commodity produced and sold on a Marin coastal zone property by its owner would seemingly meet the "necessary for" test. Owners wishing to process agricultural products from other properties would be able to apply for a conditional coastal permit.

4) The LCPA extends developments entitlements to an unlimited number of "operators" and "lessees" in addition to the property owner.

The LCPA has an amended definition of "actively and directly engaged", which includes anyone making management decisions for the agricultural operations, or a leaseholder. *See* IPA section 22.130.030. In applying this definition to retail sales and processing facilities, it would allow products produced either on-site or on other Marin properties owned ***or leased*** by the sales facility owner or ***operator*** [term not defined] to sell products.

The County's purported reasoning for vastly expanding the definition of "agriculture" in the LCPA was to enable long-time family farmers some flexibility to diversify uses on their farm. EAC has supported this concept. However, allowing any *operator or lessee* to enjoy the same rights as the farm owner grants an unprecedented amount of development authority to a non-family farmer.

5) The LUPA impermissibly opens the door to new residential development on C-APZ lands in exchange for an affirmative agricultural easement.

Policy C-AG-2.b should be deleted. The County proposes to bypass the very stringent findings necessary to develop non-agricultural uses on C-APZ lands and instead would open the door to residential development on agricultural production lands in exchange for an affirmative agricultural easement. Such a policy is flatly inconsistent with Coastal Act requirements.

In addition, the LCPA includes multiple references to a program to develop approval of non-agricultural residential housing on C-APZ lots in return for affirmative agricultural easements. The goal – affirmative agricultural easements – is a worthy one but the proposed route to it is misguided.

The LCPA has again included the language for conditional uses in C-APZ that was previously expressly deleted by Commission staff modifications. The LCPA makes numerous references to "residential" development in LUPA policies: C-AG-8.a and C-AG-9.A, all of which are very problematic and would violate the Coastal Act. Specifically, policy C-AG-8.a should be deleted and in and policy C-AG-9.A, the word "primarily" should be deleted.

The Commission's May 2014 staff report for the Marin LUP states:

> Single-family residences owned by persons unrelated to the farming operation cannot meet the required test that such use is necessary for agricultural production. Since single-family dwellings are inherently not necessary for agricultural production, nor can they meet Coastal Act 30241's requirements, they must be deleted as an allowable land use. Thus, a suggested modification is required in Policy C-AG-2 which

> deletes such residential development as an allowed conditional use. (Page 34)

The one reference by County staff to Commission approval of residential development (Sterling appeal) says this in the Commission staff report:

> Finally, since there is evidence in the record that continued or renewed agriculture is feasible the applicant's parcel and permitted uses are prohibited from impairing or diminishing the agricultural viability or productivity of agricultural lands on and adjacent to the site, the conversion of agricultural lands to a non-agricultural use is not permitted. (A-2-SMC-07-001 (Sterling) De Novo Staff Report, W11a-8-2010)

Permitting residential development on C-APZ land in return for an affirmative agricultural easement would constitute residential development not necessary to agricultural production.

> 6) The deletion of the requirement that intergenerational homes not require any new road construction is problematic.

The LCPA deletes the requirement that intergenerational homes not require any new road construction. *See* IPA section 22.32.024.J.3. While the general C-APZ zoning district standards in IPA section 22.65.040.C.1.d still mention that "development . . . shall not require new road construction…" it is better to retain this standard in the specific development provisions pertaining to intergenerational homes.

> 7) The definition of "ongoing agriculture" is inconsistent with the Coastal Act's definition of development. For example, the LCPA expands the definition of "ongoing agriculture" from existing agricultural production to a variety of agricultural uses. It also does so without recognition of permit streamlining available through the *de minimis* waiver provision.

IPA section 22.130 defines "agriculture ongoing" to include all routine agricultural cultivation practices that have not been expanded into environmental sensitive habitat areas ("ESHA") and ESHA buffers. The Coastal Act has a very broad definition of development (section 30106). Changes in the nature, intensity, or density of use of land or water constitute "development" under Coastal Act section 30106, so grading and changes in the nature of use of land cannot be summarily excluded.

The *de minimis* waiver procedure – which County staff insisted be included in the LCPA - will be available to minimize permitting requirements for

agricultural activities that qualify as ongoing, an important streamlining feature that the LCPA fails to recognize (IPA section 22.68.070). In the past, the County claimed that the *de minimis* waiver would be a "time consuming, expensive and unpredictable procedural hurdle for agricultural producers," making it clear that the County would prefer that all development on agricultural lands not be subject to any permitting requirements. This does not follow the Coastal Act's mandates.

Thus, "review and approval" of qualifying activities does not require obtaining a Coastal Development Permit ("CDP"), only applying for a waiver. According to the Commission's April 2015 staff report (page 41),

> Even if an agricultural development is found to require a CDP, the IP as proposed to be modified offers new tools to streamline the permitting process. These streamlined procedures include the County's use of the de minimis waiver of CDP requirements process for non-appealable development (IP Section 22.68.070), and public hearing waivers for appealable development (IP Section 22.70.030(B)(5)).

It seems clear that the Commission staff has gone out of its way to find ways for agricultural activities to benefit from flexible permit requirements. The County has offered no rational basis for rejecting the Commission's approach.

According to the Commission's April 2015 staff report, "the IP as modified [by Commission staff] sets up a structure in which a CDP is not required for ongoing agricultural production activities, many new agricultural activities may be excluded from requiring a CDP, and, even if a CDP is required, it can be waived or deemed minor." (Page 5)

Further, the Commission's April 2015 staff report states (on page 88) that:

> What requires a coastal permit is development that constitutes either a change in use or intensity of use or new grading into an area that has not previously been farmed. In response to public comments that have been received on this topic, the Commission's suggested modifications expressly acknowledge that existing legally established ongoing agricultural production activities that have been part of a regular pattern of agricultural practices that has not been discontinued (such as ongoing rotational grazing and crop farming) does not constitute a change in intensity of use but is a recognized agricultural practice that helps to further productive use of the land. Therefore, to the extent the rotational crop farming or grazing has been part of a regular pattern of agricultural practices, it is not a change in intensity of use of the land despite the fact that the grazing and crop growing are rotationally occurring on

different plots of land. Therefore, ongoing agricultural activities are defined to include an established pattern of agricultural production activities such as ongoing rotational grazing and crop farming.

Even if an agricultural development is found to require a CDP, the IPA offers new tools to streamline the permitting process.

8) The deletion of the principally permitted use ("PPU") standards in Table 5-1 is problematic. The standards are necessary for the determination of the permit category for proposed development.

Standards for Ag PPU are set out in the IPA, including in sections 22.32.023, 22.32.024, 22.32.025, and 22.65.040. The County has said its staff will use the tables to make determinations, and Table 5-1-a must accurately itemize and include the standards.

In order to be useful, Table 5-1-a must be revised. The language that has been struck from the table should be re-added in order to distinguish uses that qualify as PPU and those that are permitted or conditional. In particular, footnote 8 should be re-added, as well as the specific references to 22.32.023, 22.32.024, 22.32.025, and 22.65.040 throughout the table. The land uses need to meet the standards set forth in the relevant sections of the IPA in order to be considered PPUs.

9) The additional agricultural entitlements should be subject to public hearings. Alternatively, no fee should be charged for appealing administrative approval of these uses.

Additional agricultural entitlements such as the intergenerational home, the processing uses/facility, and the retail sales facility/farm stand should be subject to a public hearing upon the request of a neighbor or other member of the public. If no such hearing is requested, the hearing would be waived. Alternatively, the requirement for payment of a fee to appeal an administrative approval should be deleted. The public's right under the Coastal Act to participate in the planning process would otherwise be diminished or curtailed. Also, refer to the attached Table, *Notes on 2016 Proposed IPA*.

10) The existing Categorical Exclusion ("CatEx") Orders should be amended to:

a. Delete vineyard development from the category of agricultural development excluded from the requirement to apply for a CDP.

The CatEx is the appropriate place to expressly exclude vineyard

development or initial vineyard work. By its nature, viticulture is not a type of development that is sufficiently limited in its impacts to qualify for an exclusion.

b. Require Design Review for agricultural structures subject to CatEx Orders to ensure protection of public views.

Additionally, at the May 2015 Commission hearing on the Marin Implementation Plan, the Commissioners gave direction to County staff to ensure that even if agricultural structures are subject to the CatEx, they still must be subject to Design Review. In doing so, the County would ensure that one of the key priorities of the Coastal Act – protection of scenic public views – is upheld and enforced.

c. Provide for public hearing(s), in addition to Design Review, so public input can be fully brought to bear on visual resource protection.

In addition to Design Review, public hearings for exclusions should be noticed and held so that public comments can be made regarding the protection of visual resources and any other public concerns. The public hearing waiver is available to streamline this requirement in the event that the excluded development does not raise public concerns.

11) The LCPA removes the "and necessary for agricultural production" requirement for agricultural structures and agricultural uses in C-APZ. The logic of changing this to "or necessary for" is flawed and should be rejected. Furthermore, section 22.65.040 of the IPA ignores the Commission's prior clear distinction between "agricultural use" and "agricultural production."

Throughout the IPA, "or necessary for" has been added. For examples, see IPA sections 22.32.021, 22.32.022, 22.32.024.J., 22.132.115, and 22.65.040. EAC agrees with the Commission staff that the narrower language "and necessary for agricultural production" is the essential requirement for any development in C-APZ. The IPA's current language broadly construes agriculture and agricultural production activities. *See* IPA section 22.130. The Commission May 2014 staff report states that:

> Defining the PPU for the C-APZ zone as agriculture and including both production (the physical use of land to grow a commodity) and structures necessary for its operation (barns, worker housing, and facilities used for storage and processing of the commodity) furthers the Coastal Act's objective of protecting agricultural viability in the state's coastal zone . . . . it is appropriate to classify development other than agricultural production itself as a form of the principally permitted use of agricultural, so long as there are appropriate standards to ensure that they are in fact necessary to

agricultural operations. (Page 28)

Further, as submitted, the County's policies,

> …that seek to protect agriculture do not fully meet Coastal Act Sections 30241 and 30242 requirements that protect against conversion of prime agricultural land and land suitable for agricultural uses because they do not specifically protect land in agricultural production. ... modifications are necessary throughout Policy C-AG-7 to ensure that while, even though such as barns and processing facilities may be necessary for agricultural production considered agricultural uses, all development in the C-APZ zone must protect and maintain land for agricultural production (Commission staff report May 2014, page 32).

Contrary to the County staff's assertions, retaining the "and necessary for" language is essential to allowing development in the C-APZ district, while meeting the Coastal Act's agriculture protection goals. This minimal affirmative showing that the agricultural use is necessary as a PPU would not be a burden. As the Commission staff has pointed out, both County and Marin Agricultural Land Trust easement agreements contain similar language. The LUPA would allow a significant amount of new development potential on agriculture production zone lands – development that currently is either not allowed or is a conditional use within this zoning district. The "and necessary for agricultural production" language should be retained.

IPA section 22.65.040 ignores the Commission's prior clear distinction between "agricultural use" and "agricultural production". The Commission staff has given a precise explanation of the difference between "agricultural use" and "agricultural production" and why they should be distinctly understood.

The Commission's April 2015 staff report states that:

> If the policy simply protected agricultural use, then structural development such as farmhouses and processing facilities would not need to minimize their footprint on the land since they are defined as agriculture. Conversely, Policy C-AG-5 requires agricultural dwelling units to be owned by a farmer or operator actively and directly engaged in agricultural use of the property. The term agricultural *use* is used here to allow for the owner to be engaged in the broad agricultural activities undertaken on the farm, including presiding over agricultural leases, without having to be actively working the fields for production activities. Thus, the terms agricultural use and agricultural production are distinct terms that have different meanings with respect to the LUP's policies. (p.

28)

The County has not presented substantive reasoning for changing the terms agricultural use and agricultural production, and its proposed changes should be rejected.

12) The County's Ordinance regarding viticulture is inconsistent with the Coastal Act and should not be used as the standard. Furthermore, viticulture should be a conditional use.

Viticulture raises many issues in the coastal zone. For example, it is highly water intensive, and we know that the water resources of the area are limited. LUPA policy C-AG-2.A.1.d sets out viticulture as one of the PPUs of agricultural production. Viticulture should be a conditional use. Additional standards need to be added to the IPA to adequately address hydrologic issues, scenic resource protection, and habitat conversion.

In regard to hydrologic issues, the following should be required for new proposed viticulture projects: there should be groundwater usage estimates required, a groundwater pump test should be conducted, wells need to be metered, and a pond engineering study should be conducted.

In regard to scenic resource protection and habitat conversion, the following should be required for new proposed viticulture projects: prohibit conversion of pasture land on slopes greater than 20 percent, require Design Review, require a field study of nesting bird habitat, require an agricultural production and stewardship plan, prohibit the use of any pesticides, and require BMPs and mitigation measures to address sedimentation.

Implementation Plan Provisions

Regarding Principal Permitted Uses, 22.32.026, 22.32.027

To qualify as a PPU, a processing facility must not be placed on land designated as prime agricultural land. This should be added to IPA section 22.32.026. Agricultural process facilities and agricultural retail sales must meet the parking standard in order to qualify as a PPU.

Regarding Principal Permitted Uses, 22.62.060

Add underlined text to conform IPA section 22.62.060.B.1 to policy C-AG-2:

b. Agricultural accessory structures and agricultural accessory activities;

appurtenant and necessary to the operation of agricultural uses for agricultural production.

d. Other Agricultural Uses, if appurtenant and necessary to the operation of agricultural uses for agricultural production.

Table 5-1-a is the go-to summary for permit requirements. It must include the standards that distinguish PPU, P, and U requirements for each use. For example: agricultural processing is a PPU only if it meets particular standards, otherwise it is a permitted or conditional use. *See* IPA section 22.32.026.A.1-4.

II. Biological Resources (BIO)

13) The biological resources section of the IPA (22.64.050) lacks codified standards for implementing LUPA policies, and the buffer adjustment sections of the LUPA need to be revised so that the exceptions are not too broad.

As an overall comment, the wetland and stream protections in the LCPA are too weak and do not comply with the Coastal Act. The LCPA ignores wetland impacts from sea level rise ("SLR") and has construed the wetland and steam buffer exceptions too broadly. The LCPA should have wetland and stream protections that are at least as strong as the Certified LCP.

The implementation plan must include "substantive and procedural standards to implement all coastal land use policies…" *See* LCP Update Guide, p. 78.[1] Although IPA section 22.64.050.B is titled "Biological Resource standards", none of the 11 enumerated categories of biological resources provide any real standards. Instead, each paragraph merely refers to one or more LUPA policies C-BIO -1, …, C-BIO-25.

In addition, to ensure that exceptions to the buffer requirement do not become common practice, language should be added to policies for Wetland

[1] P. 78 of the Commission's *Updating LCP Implementation Plan (IP) Procedures LCP Update Guide* states: "A coastal implementation plan consists of zoning ordinances and district maps. Essential elements of an implementation plan include:

…

- substantive and procedural standards to implement all coastal land use policies, such as those implementing your required public access component and those governing environmentally sensitive habitats, biology and marine resources, geology and hazards management, view protection, and archaeology among others…"

Buffer Adjustments (C-BIO-20) and Stream Buffer Adjustments (C-BIO-25) so that the proposed exceptions to the 100-foot buffer requirement are limited.

The language in policy C-BIO-20.1 should be replaced with the following:

1. A buffer adjustment to less than 100 feet may be considered only if:

a.) It is a rare and exceptional circumstance, and only for the Principally Permitted Use in that zoning district, or
b.) It is for a necessary public purpose, or
c.) It is to avoid a taking of private property.

Proposed exceptions should be evaluated taking into account all contiguous lots under common ownership. A public hearing should be required for any proposed buffer adjustment.

The language in policy C-BIO-25.1 should be replaced with the below language:

1. A buffer adjustment to less than that required by C-BIO-TBD[2] may be considered only if:

a.) It is a rare and exceptional circumstance, and only for the Principally Permitted Use in that zoning district, or
b.) It is for a necessary public purpose, or
c.) It is to avoid a taking of private property.

Proposed exceptions should be evaluated taking into account all contiguous lots under common ownership. A public hearing should be required for any proposed buffer adjustment.

III. Environmental Hazards (EH)

Summary of EH Concerns

14) The Federal Emergency Management Agency ("FEMA") requirement to elevate structures may not apply to all of the properties in the flood hazards and sea level rise ("SLR") zones, but the County proposes to require elevation in all cases.

15) The Coastal Act requires a case-by-case evaluation of individual developments, but the County's proposals either ignore these requirements,

[2] Note this policy section needs a number instead of "TBD".

or render them meaningless.

16) Additional detail is need in the LUPA's EH section regarding SLR and its potential effects on wastewater treatment, among other issues.

17) An exclusion order is required to create a blanket policy exempting additional building height from permit requirements.

18) The proposed "redevelopment" definition is inconsistent with the Coastal Act and Commission regulations.

19) Additional specific comments (by EH section) on the LUPA.

Analysis of EH Concerns

The Environmental Hazards chapter is an essential component of the LUPA that considers impacts to existing and new development from SLR, greater storm surges, coastal bluff erosion, and other hazards. This section should be forward thinking, considering the future impacts of climate change, especially on coastal communities. A wealth of new science has been presented and must be incorporated into the policies and reflected in the development code regulations dealing with environmental hazards.

14) The Federal Emergency Management Agency ("FEMA") requirement to elevate structures may not apply to all of the properties in the flood hazards and SLR zones, but the County proposes to require elevation in all cases.

Federal Emergency Management Agency ("FEMA") elevation requirements only apply to properties covered by the National Flood Insurance Program ("NFIP"). The County has not provided any evidence that all, or even most, of the properties in the flood hazard and SLR zones are part of the NFIP. Thus, the suggestion that FEMA requirements drove the County to use elevation as the only strategy to deal with SLR is misleading. The County has chosen to require elevation as the only strategy by omitting any possible alternative. Moreover, it is disingenuous to suggest that the requirements the County itself is imposing are so onerous that property owners need exemptions or exclusions in order to comply with them.

15) The Coastal Act requires a case-by-case evaluation of individual developments, but the County's proposals either ignore these requirements, or render them meaningless.

County staff has suggested that by relying on FEMA requirements as a

uniform standard, hazard reports would not be needed for individual developments, and that this is a benefit. However, developments may have individualized impacts, particularly along the shoreline interface, which is dynamic and subject to migration or other change due to SLR. Consistency with Coastal Act section 30253(b) necessarily requires case-by-case evaluation to ensure, for instance, that a particular pier / caisson superstructure will "neither create nor contribute significantly to erosion...."

Individual evaluations are also necessary to account for the ingress and egress to the raised structure, as well as water and septic services, since all of these can have their own effects on the surrounding area.

Regarding policy C-EH-9.2, in cases where the County would require individual evaluations, the process would be a formality with only a single possible conclusion. For example, when an elevated structure would exceed a total height of 30 feet above the surrounding grade, the County proposes requiring "an individual evaluation of conformance with public view, community character and related provisions of the LCP." *See* policy C-EH-9.2. Because there would be no permissible alternative to elevating a structure, however, those evaluations would either result in approval of the CDP, or a finding by the County that a taking would occur if the permit were not approved. Either way, the County will always approve the structure as proposed. Therefore, the "individual evaluation" is merely cursory.

In addition, as a brief point, policy C-EH-9 contains inconsistent language as it refers to a maximum allowable height of both 25 feet and 30 feet.

16) Additional detail is need in the LUPA's EH section regarding SLR and its potential effects on wastewater treatment, among other issues.

The LUPA's EH section lacks sufficient detail regarding SLR and its potential effects on wastewater treatment. The County asserts that they intend to address SLR as part of their long-range plan. While this is a good goal, specificity is also needed in the LUPA regarding SLR, and its effects on wastewater treatment in particular.

17) An exclusion order is required to create a blanket policy exempting additional building height from permit requirements.

The County wants to create a blanket policy exempting additional building height from permit requirements. However, this type of over-arching policy requires an exclusion order. Under California Code of Regulations section 13241, development consisting solely of raising an existing structure would be a "category of development". *See* § 13241. The County staff proposed "standard findings" are almost precisely those in Coastal Act section 30610.5(a)(2), which

the Commission must make in order to approve an Exclusion Order. Policies C-EH-3, -5, -8, and -9, and related implementation provisions which pertain to elevating structures, function as an Exclusion Order that the County has unilaterally adopted. Exclusion Order E-82-6 does not include elevation of a structure as a category of development that is excluded. If the County wishes to pursue this policy of exempting development that consists solely of raising an existing structure, it should seek a new Exclusion Order.

18) The proposed "redevelopment" definition is inconsistent with the Coastal Act and Commission regulations.

County staff argues that the definition of "redevelopment" proposed by the Commission staff is unworkable. We disagree, and note that the Commission has previously approved this definition, for example in 2014 as part of the County's original LUP submission, and in the 2013 Solana Beach LCP. The County recently provided additional information in their June 3, 2016 letter to the Commission. In section 6.a. of the County's letter, the County asserts that they maintain the history of permits issued for each parcel and are thus able readily to track redevelopments.

County staff's assertion that revising certain other LCP policies to account for SLR is impractical (resulting in "redundancy, length and complexity of the bloated language") is exaggerated. No one has suggested that every policy needs to account for SLR, but some clearly do. For example, C-DES-6 calls for undergrounding utilities, which may not be desirable in areas subject to flooding or inundation from SLR. Other policies that need to be revised include, but are not limited to, C-BIO-19 regarding wetland buffers, C-PA-2 regarding public coastal access, and C-PFS-6 regarding sewage disposal.

We also offer the following comments on specific environmental hazards policy and thereafter on the IPA.

19) Additional specific comments (by EH section) on the LUPA.

C-EH-1 Safety of New Development

This policy should not focus only on safety, but also on the protection of public access, natural resources, and visual and scenic resources over the lifetime of the development. The 100-year standard should be maintained. This standard has already been approved by the County Planning Commission (2012), the County Board of Supervisors (2013), and the Commission (2014).

C-EH-2 Applicant's Assumption and Disclosure of Risk

Policy C-EH-2 should specify that the "document" being recorded is a

deed restriction, consistent with IPA section 22.64.060.B.8.

C-EH-3 Flood Hazards

Policy C-EH-3.1 refers to Chapter 23.09, which has not been certified by the Commission, and is not included in the IPA. The specific text of Chapter 23.09 should be added to the IPA.

The Commission staff also addressed this concern in their May 6, 2016 letter to the County: "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." The County's June 3, 2016 response is insufficient.

In policy C-EH-3.3, after "the stability of the area;" insert " nor adversely impact coastal resources including public access, natural landforms, or scenic and visual resources; and".

The last paragraph of this section is inconsistent with Coastal Act sections 30251, 30253, and 30610 because it relies on evading the permit process in order to "...minimize risks to life and property..."

C-EH-5 New Shoreline and Blufftop Development

Replace the "is safe from" standard in C-EH-5(A) with the Coastal Act section 30253(b) standard of assuring stability and structural integrity. "Is safe from" is a vague and undefined standard that will be difficult to administer. The same change should be made in C-EH-5(B) for Shoreline Development.

In the final sentence of (A), insert "based on best available science" after "potential sea level rise estimates".[3]

In C-EH-5(B), condition the use of caisson / pier foundations on a finding that they do not cause negative impacts on public access, public views, or natural landforms considering likely changes in erosion and shoreline dynamics over time.

As noted previously in our comment (17) on *Additional Building Height*, the last sentence of this policy is inconsistent with Chapter 3 of the Coastal Act regarding protection of coastal resources. The County needs to seek a Categorical Exclusion order to carry out this policy.

[3] Also, in the final sentence of (A), the period after "climate impacts" should be a comma.

C-EH-8 and C-EH-9 Minimum Floor Elevations and Maximum Building Heights in Flood Hazard Areas

Delete "new" before development in the first sentence of each policy.

C-EH-9 is internally inconsistent. It allows a height limit of 25 feet for new structures, but 30 feet for existing structures.

C-EH-11 Maximum Building Heights in the Flood Velocity Zone at Seadrift

Reinsert the final sentence concerning protection of community character and scenic resources.

C-EH-13 Shoreline Protective Devices

Delete "Discourage" and substitute "Except as provided below, prohibit" in the first sentence.

In the second paragraph, the added language regarding piers and caissons is problematic. Regardless of their intent, under some circumstances, deep piers or caissons can function as shoreline protective devices. The use of caisson/pier foundations should be conditioned. *See* our above comment on C-EH-5(B).

Policy C-EH-13(8) should specify that the device should be removed when it is no longer required or allowed (because the structure is gone or a "replacement structure" has taken its place.)

C-EH-15 Accessory Structures in Hazardous Areas

Policy C-EH-15(2) should say "...easily relocatable and/or removable in their entirety without…" "In their entirety" should be added.[4]

C-EH-22 Sea Level Rise and Marin's Coast

First sentence should start "The County shall use..."

C-EH-25 Existing Development and Fire Safety

Should be a *de minimis* permit rather than a waiver.

Implementation Plan Provisions

The IPA includes provisions for implementation of all LUPA policies.

[4] There is also an extra space in this sentence after relocatable.

Reliance on Best Available Science, 22.64.060.A.1.b.3.

Despite the caption "Reliance on Best Available Science," the section deals with permit exemptions and exclusions; it barely mentions science at all.

IV. Water Resources (WR)

20) The Water Resources section of the IPA lacks specificity. The IPA should include specific codified standards.

The water quality section of the IPA lacks codified standards for implementing LUPA policies. Although section 22.64.080.B is headed "Water quality standards", the seven enumerated categories of water quality standards either provide no standard or provide a very vague standard. The sections, which provide no standard, merely refer to one or more LUPA policies, i.e. C-WR-1, …, C-WR-16. The IPA should contain specific standards in the document itself. The water quality standards section should contain specific standards including numeric water quality standards for pollutants. The Best Management Practices ("BMPs") should not just be referred to, but the BMPs should be defined and specified in the IPA.

The grading and excavation section of the IPA also lacks codified standards for implementing LUPA policies. Although section 22.64.080.C is titled "Grading and excavation standards", six of the ten enumerated categories of grading and excavation categories provide no standard. Instead, each paragraph merely refers to one or more LUPA policies C-WR-2, …, C-WR-17. The grading and excavation standards section should contain specific standards within the section.

V. Public Facilities and Services (PFS)

21) The deletion of the C-PFS-4 standards is contrary to the Coastal Act.

The LUPA deletes the requirement that a project proponent make a showing that public facilities services are available and adequate to serve new non-priority use development. There is very limited water and sewage capacity in most of the coastal zone, and this deletion is contrary to the Coastal Act's priorities. The public facilities adequacy requirement should apply to all systems and permits, not just community systems.

The deleted language is policy C-PFS-4 should be added back in: "In areas with 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."

Implementation Plan Provisions

Public Facilities and Services, 22.64.140

As detailed below, the County's analysis of, and suggested changes to, Section 22.64.140 focus almost exclusively on what it sees as unfair administrative burdens. The analysis ignores or dismisses basic Coastal Act mandates, as well as basic realities of present-day life in Marin's coastal zone.

The County's insistence that 22.64.140.A.1.b only apply to development receiving water from a public water supply is inconsistent with the protections of coastal waters and ground water supplies required by Coastal Act section 30231, and of coastal resources generally, as required by section 30250. An analysis of possible adverse effects on these resources may in some cases be "time-consuming and expensive," as County staff notes, but it is still required by the Coastal Act. We note that this analysis is precisely what the Inverness Park community requested in response to a recent large-scale residential development proposal, and that such proposals are likely to become increasingly common in West Marin.

County staff then completely confuses the issue by gratuitously inserting language from Coastal Act section 30254, which only applies to public works facilities.

VI. Permit Administration

22) We have concerns regarding permit administration including a) challenges, and b) variances.

For ease of reference, we have also attached a table, titled *Notes on 2016 Proposed IPA*, which details additional specific concerns regarding permit administration. Please see the attached table.

Regarding Maximum Height, 22.64.030, 22.65.030, 22.54.045

To comply with policy C-DES-4, any exception to a maximum height standard must be subject to both Design Review and Coastal Variance.

Development near ridgelines needs to set a lower maximum height within the vertical and horizontal setbacks (22.65.030.D.2).

Maximum fence height need to be specified for planned districts as well as for conventional districts that specify setbacks (*See* 22.64.045.2.A). A section that

is similar to 22.64.045.2A. should be added to *Planned District General Development Standards*, 22.65.030, as well.

Variance of C-RSP Zoning District Standards, 22.65.060.C.

Additional height on the shoreline of Tomales Bay should only be permitted by Coastal Variance, not at the Director's discretion.

Categorical Exclusion Noticing, 22.68.040.B.

Determination of the categorical exclusion status of an application is a discretionary action that determines that the application satisfies the requirements for an exclusion; it must be subject to meaningful challenge. In order to provide for meaningful right to challenge an exclusion determination, notice must be available. Notice should be provided to members of the public who subscribe to County website notifications for categorical exclusion determinations and this form of notice would not impose a significant administrative burden. The County has deleted language that would have required this. The language should be re-added.

Exempt Development, 22.68.050

The following final sentence should be added back in: "The Director's determination of whether a proposed development is exempt from Coastal Permit requirements can be challenged pursuant to Section 22.70.040." Exemptions must be subject to challenge. The right to challenge an exempt determination is empty without timely posting of a list and providing notice to members of the public who subscribe to County website notifications of exempt determinations.

Regarding Widest Opportunity for Public Participation, 22.70.030. 22.70.040

Coastal Act section 30006 provides that,

> …the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

PPU applications generally do not receive a public hearing. If a fee is required in order to appeal a County CDP decision, that financial barrier impedes public participation and consideration of the project at public hearing. A PPU

application should either receive a public hearing, or the appeal of an administrative decision for a PPU should not be subject to fee. The IPA should: either include language that there is no fee for filing an appeal (Add deleted language back in to 22.70.080.A.5), or include language in 22.70.030.B.3 and B.4 to require a public hearing for a project that is a PPU.

Challenges to Processing Category Determination, 22.70.040.A.

Determinations of exemptions and *de minimis* waivers (as well as other determinations) must be subject to challenge; otherwise, local governmental determinations are not subject to review. "*De minimis* waiver" should be added back in to 22.70.040, since they should be subject to potential challenge(s).

The County recently provided additional information in their June 3, 2016 letter to the Commission. The County asserts that they maintain a history or permits issued for each parcel and are thus able to readily track exemptions and waivers.

Public Notice, 22.70.050.A.

Public notices must be posted to be conspicuously visible to the general public at the property at which development is proposed. Many coastal Marin residents do not have home mail delivery and many are not property owners.

Expiration Date and Time Extensions, 22.70.120.A.2.

Section 22.70.120.A.2 of the IPA needs additional language so that permit extensions cannot continue indefinitely. A coastal permit should expire after three years if not vested or extended. There should be a single, 3-year extension opportunity with the same hearing requirement as the initial permit. The County has had very troubling experiences with projects where work remains uncompleted for years and yet permits have been repeatedly extended.

Emergency Coastal Permits, 22.70.140.E

Any extension of an emergency permit after six months should be challengeable. Emergency permits should not provide a path to avoid full coastal permit review. Please re-add the following underlined language to 22.70.140.E: "…unless the Director authorizes a extension of time for good cause, <u>where such an extension of time may be challenged according to Section 22.70.40</u>."

Regarding Variances, 22.70.080, 22.70.150

A Coastal Zone Variance must be appealable in order to ensure that developments that, absent a variance, would qualify as PPU are appealable when they do not meet PPU standards.

An example is provided in the Commission's LCP Update Guide:

EXAMPLE: Commission suggested modifications to a certified IP variance section proposed for amendment (see especially text in bold):

> ***"B. Variances represent a deviation from the recognized and intended types, forms and scales of development within a given zoning district. Therefore, for purposes of appeal pursuant to sections 21.51.030, and/or 21.52.020 and Coastal Act section 30603(a)(4), a development for which a variance has been granted does not constitute a principal permitted use.***[5]

A variance that allows development -- for example, to exceed the maximum height specified for the zoning district in the LCPA -- removes the use from qualifying as a PPU, and must be appealable. The IPA would diminish the protection of visual resources that is ensured in the Certified LCP (22.86.025I, 22.86.040I), which provides for appeal of both administrative and public hearing variances.

The County is repeatedly inconsistent on how standards affect PPU classification. For ag retail sales and ag processing facilities, the County acknowledges that a development that does not meet the maximum area standard is not a PPU. But, for variances, the County argues that development that exceeds maximum height continues to be a PPU even when approved by variance.

Specifically, in IPA section 22.70.080.B.(c), the following language should be added back in: "(any use that also requires the granting of a Coastal Zone Variance shall not be considered a principally permitted use….)."

In addition, IPA section 22.70.150.C. should be restored.

VII. Visual Resources

23) The protection of visual resources is fundamental to the Coastal Act, and the LCPA should uphold these protections.

Regarding Visual Resources, 22.60.010, 22.64.110

The word "significant" before "public views" should be deleted throughout the document. For example, it should be deleted in 22.60.010. Coastal Act section 30251 protects public "views", not "significant views."

IPA section 22.64.110 should be revised to require new development to be "…located…where it will not have significant adverse impacts ... on

[5] *Updating LCP Implementation Plan (IP) Procedures*, pages 133-134

environmental and natural resources or scenic and visual resources, including coastal resources."

IPA section 22.64.100.A.2 should be revised from "protect visual resources" to "protect scenic and visual resources" to add additional protection.

Categorically excluded development must meet the requirement that the excluded development "will have no potential for adverse impact on visual and scenic coastal resources." (*See* E-81-6, III. 2.); *see also* Coastal Act section 30250(a).

VIII.) Appeals Jurisdiction

24) As raised in our June 16, 2016 letter to the Commission, the County submitted an erroneous appeals jurisdiction map.

The Commission's May 6, 2016 letter to the County states under bullet, point 2 "Maps" that:

> …all maps that are intended for use in implementing the LCP must be finalized, adopted by the Board and submitted. … Such maps include the Environmental Hazards, Categorical Exclusion Areas, Appeal Jurisdiction, Zoning, and Village Core Commercial maps … 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.

Upon reviewing the files that the County has submitted to the Commission, the appeals jurisdiction map is erroneous because it has not been substantively revised. The County resubmitted maps to the Commission in a file entitled: 20160510_All_LCPA_Maps.pdf. As part of this file, there is a map entitled "MAP 28a - Revised 8/16/11 APPEAL AND PERMIT JURISDICTION AREAS NORTHWEST MARIN." This map is identical to the draft map that the County submitted on April 12, 2016 to the Inverness Association except the word "DRAFT" has been removed.[6] However, no other substantive changes have been made to the revised map.

In the concluding paragraph of the April 12, 2016 County Letter, Kristin Drumm of the County emphasized that the map submitted (28a) would need to be revised to meet the Commission's requirements:

[6] http://www.marincounty.org/~/media/files/departments/cd/planning/local-coastal/letters/2016/cda_response_inverness_association_4122016.pdf?la=en

> … in 2014 Commission staff indicated neither the Coastal Commission nor Commission Executive staff will consider using their discretionary authority to either recommend limiting or to limit the geographic extent of the Commission's Appeal Jurisdiction for any reason. According to Commission staff, this means the draft maps currently shown *must be revised* to reflect Highway One as the First Public Road, consistent with the existing certified maps. This effectively eliminates the proposed non-appealable areas shown on the draft maps. (emphasis added).

IX. Definitions, 22.130

Definitions should be added for the following terms:

Operator

Written request: provide definition that includes electronic mail message.

Thank you for your consideration of our comments.

Respectfully,

Morgan Patton
Executive Director

Ashley Eagle-Gibbs
Conservation Director

Notes on 2016 Proposed IP

IP Section	*Subsection*	*Recommended change*	*Remarks*
Principal Permitted Uses			
22.32.026 – Agricultural Processing Uses	A {final paragraph}	**MODIFY:** In order to qualify as a PPU agricultural processing must comply with A.4 (the parking standard).	
22.32.026	A.	**ADD**: 5. The processing-facility is not placed on land designated as prime agricultural land.	
22.32.027 – Agricultural Retail Sales	A.	**ADD:** to be a PPU, a use must also meet the parking standard (specified in B.1)	
22.62.060 – Coastal Agricultural and Resource-Related Districts	22.62.060.B.1.b (C-APZ)	**ADD:** Itemization of PPU developments must include: "appurtenant and necessary to the operation of agricultural uses for agricultural production"	per LUP Policy C-AG-2
22.62.060	22.62.060.B.1.d(2)	Educational tours: **REVISE TO**: Non- profit and owner-operator conducted educational tours	C-AG-2.5.b and B.
22.62.060	**Table 5-1-a** Rows for: Intergenerational homes; Farmhouse; processing; retail sales; worker housing	The detailed standards are necessary to distinguish PPU, P, and U permit requirements for Intergenerational Homes; Farmhouse, ag processing; ag retail sales; ag worker housing– **RETAIN** the County-deleted language**:** (parenthetical) standards in column 1.	*See:* EAC letter to CCC, 8-30-15. *Cf*: 22.65.040; 22.32.026.A; 22.32.027.A
Maximum height			
22.64.030 –General Site Development Standards: Maximum Height	Tables 5-4-a; 5-4-b; 5-5. Maximum Height footnotes. (4)b; (4)c; (4); (3)	**REQUIRE:** Both Design Review and Coastal Zone Variance for an exception to maximum height.	LUP C-DES-4 stated maximum heights. "In all cases, the height limits specified in this policy are maximums …"
22.64.045--Property Development and Use Standards	22.64.045.2.A.1	**REQUIRE:** Maximum fence height for planned districts as well as for conventional districts that specify setbacks.	
22.64.045—Height Exceptions	22.64.045.3.D.3	**Flood Hazard and SLR Safety.** The IP Section is inconsistent with policy C-EH-9, and a variance should be required for heights exceeding 25 feet.	
22.65.030 – Planned District General Development Standards	22.65.030.D.2	**Development near ridgelines**. Needs to set a lower maximum height for development within restricted area of ridgeline.	
Visual Resources			
22.64.110 – Community Development	**1. Location of new development.**	**ADD:** New development shall be located … where it will not have significant adverse impacts … on environmental and natural resources, **scenic and visual resources**, including coastal resources.	
22.68.04 – Coastal Permit Not Required: Categorically Excluded Development	**A**	**ADD:** Development specifically designated as categorically excluded … is not subject to Coastal Permit requirements if such development is consistent with all terms and conditions of the Categorical Exclusion Order, **"including that the new development will not adversely impact public views or scenic coastal areas**"	Section 30251. Exclusion Order E-81-6: "no exclusion can be granted for certain types of development in areas where public views or scenic coastal areas could be adversely impacted."
Variances			
22.65.060 – C-RSP Zoning District Standards	22.65.060.C.	**REQUIRE:** A Coastal Variance to exceed height limit on the shoreline of Tomales Bay.	Additional height should only be permitted by Coastal Variance, not at Director's discretion

22.70.080 – Appeal	B.1 (c)	**RETAIN OR REVISE** the County-deleted language**:** ~~(any use that also requires the granting of a Coastal Zone Variance shall not be considered a principal permitted use;~~	Coastal Zone Variance must be appealable to cover developments that do not qualify as PPU, e.g. due to excess height in a zoning district. The certified Title 22.86.025I, .040I provides for appeal of both administrative and public hearing variances.
22.70.150 – Coastal Zone Variances	**C.**	**RETAIN** the County-deleted language**: A**~~pproval of any coastal permits for development that also requires a coastal zone variance shall be appealable in compliance with Section 22.70.080~~	A variance that allows development to exceed the maximum height specified for the zoning district in the LUP removes the use from PPU, and must be appealable. Certified IP provides for appeal: 22.86.040I Appeals
22.70.190 – Property Modifications	C. Lot line adjustments	**PROHIBIT:** creating any parcel smaller than the maximum density of the zoning district, unless development is prohibited.	Prevent increased density exceeding maximum allowed as a result of property line adjustments.
Widest Opportunity for Public Participation		PPU applications generally do not receive a public hearing. If the county appeal requires a fee, public participation in a hearing is limited. A PPU should either receive a public hearing, or the appeal of an administrative decision for a PPU should not be subject to fee.	CA § 30006
22.70.080 – Appeal of Coastal Permit Decision	A.5.	***EITHER* RETAIN** the County-deleted language**:** ~~5. No such appeals shall require a fee.~~	*Either*: Allow appeal without fee, to enable public hearing.
22.70.030 – Coastal Permit Filing, Initial Processing	**B.3**	***OR* ADD UNDERLINED: Non-public hearing applications.** A public hearing shall not be required when an application is <u>not for a principal permitted use and is</u> not appealable to the Coastal Commission by 22.70.080	*Or:* Provide for public hearing for any PPU.
	B.4	***AND* ADD UNDERLINED: Public hearing applications.** A public hearing shall be required when a project is <u>for a principal permitted use or is</u> defined as appealable to the Coastal Commission by 22.70.080 - Appeal of Coastal Permit Decision, unless the proposed project only entails the approval of a second unit in a residential zone or if it qualifies for a public hearing waiver.	*And:* Provide for public hearing for any PPU.
Procedural Requirements			
22.68.040 CatEx development	B. Noticing	**RETAIN** the County-deleted language: ~~or have requested to be kept informed regarding the type of development subject to the categorical exclusion and/or development at the location and/or within the particular zoning district)~~ **RETAIN** the County-deleted language**:**~~: The Director shall maintain, post on the Agency's website at least weekly, and regularly transmit to the Coastal Commission a list and summary~~	List and summary needs to be publicly posted on website. The right to challenge an exclusion determination is empty without timely posting of list of exempt determinations. Also, how would someone know to specifically request notice of a categorical exclusion determination?
22.68.050 Exempt development	First paragraph	**RETAIN FINAL SENTENCE of the** County-deleted language: ~~The Director's determination of whether a proposed development is exempt from Coastal Permit requirements can be challenged pursuant to Section 22.70.04.~~	
22.68.050	C. Repair and maintenance.	Replacement of 50% or more should be a <u>cumulative</u> measure over time.	§ 13252(b) CCC regs.: 50+% requires a CDP
22.70.040 – Challenges	**A & B**	**RETAIN** the County-deleted language: "exemptions, *de minimis* waiver" from determinations subject to challenge.	Without the right to challenge a Director's determination no other recourse exists for an exemption determination or a waiver.

22.70.050 – Public Notice		**RETAIN** the County-deleted language**:** "conspicuously visible to the general public" requirement for posting notice at the property.	Some West Marin communities have no home mail delivery; posted notice is especially important for informing residents who may not be property owners.
22.70.050	A.3	"written request": **DEFINE** to include request by electronic mail	
22.70.120 – Expiration Date and Time Extension	A.3	**ADD REQUIREMENT:** public hearing for any extension**.**	
22.70.140 – Emergency Coastal Permits	E.	**RETAIN:** provision to challenge an extension beyond 6 months. Any extension of an emergency permit after 6 months should be challengeable.	Any extension of an emergency permit after 6 months should be challengeable.
22.70.190 – Property Modifications	C. Lot line adjustments	**PROHIBIT:** creating any parcel smaller than the maximum density of the zoning district, unless development is prohibited.	Prevent increased density exceeding maximum allowed as a result of property line adjustments.
Definitions			
22.130. 130 Definitions	*Written request*	**INCLUDE** a request by electronic mail.	
22.130. 130			