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## Agenda Item Th14a

Environmental Action Committee of West Marin

August 6, 2021

Chair Steve Padilla  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105  
*Via Electronic Delivery: NorthCentralCoast@coastal.ca.gov*

### Re: August 2021 Agenda Item: Th14a Marin County LCP Update

Dear Chair Padilla,

The Environmental Action Committee of West Marin (EAC) submits the following comments regarding the County of Marin (County)'s Local Coastal Program (LCP) update. We are writing today to express our concern to the California Coastal Commission (Commission) with the County's implementation of a partially updated LCP that includes 1980s environmental hazards policies alongside the 2018/2019 updated policies. In our July 12, 2021 letter to the County, we expressed our concerns with the implementation process and inconsistencies.

Despite our concerns with the County's current process, we are supportive of the LCP update overall. We simply disagree with the process to partially update the LCP, while retaining 1980s hazards policies for the following reasons:

- 1. The County has withdrawn and delayed updating the hazards policies three times since 2014.** Despite the County's many promises to the public and to the Commission itself, the hazards policies, first certified in 2014 and then withdrawn by the County, have not been prioritized since the County withdrew a subsequent submission in 2016.
- 2. Based on the County's most recent draft language and public statements, the County continues to develop policies that may not be Coastal Act compliant, refuses to recognize concepts such as redevelopment, and often blames the Commission for uncertainty or delays.** Even though the County has referenced a timeline, which they included at their July 13 Board of Supervisors (Board) hearing documents, the County continues publicly to avoid committing to a firm timeline to update the hazards policies in anticipation of conflicting opinions with Commission staff and perceived uncertainty at the Commission level.

To the public, this implies continued conflict between the Commission staff and the County in drafting and reviewing hazards policies, potentially due to the County's draft hazards policies not being Coastal Act consistent. Other jurisdictions have successfully updated their hazards policies in partnership with Commission staff by taking a proactive approach that results in full LCP updates being recommended for acceptance as submitted, or with minor modifications.

- 3. The County has set a precedent for other jurisdictions to delay or fail to update hazards policies.** The County promised the Commission and the public that the LCP amendments would be a complete update of the 1981 LCP. The County broke that promise, without consequence, and is now free to use the 1981 hazards policies for the foreseeable future and beyond. Other jurisdictions may be emboldened to do the same, with grave consequences for coastal resources in the face of the climate crisis.
- 4. The LCP was finalized on July 12, 2021 without adequate public awareness of that action.** The Board's public notice included a draft resolution that stated the Board would submit a package to the Commission for review and Executive Director check off.<sup>1</sup> At the Board meeting, County Counsel, relying on a letter from Commission staff released the previous afternoon, offered a new resolution to finalize the LCP effective 30 days from the Board's action (August 12, 2021). The public was not notified in advance of the Board meeting that this was a final action in the LCP update process.
- 5. The 1980s hazards policies do not consider sea level rise or other hazards related to the climate crisis.** The County maintains it has the ability to "interpret" 1980s hazards policies to consider sea level rise. In our reading, however, restrictions on finished floor and roof heights in the current development code would not allow for elevation of structures as an adaptive response to rising seas; therefore, it appears impossible for the County to meaningfully consider sea level rise under the current 1980s policies. Already, new development in the VE Flood Zone at Stinson Beach, for example, must be approved by variance just in order to meet current FEMA requirements without accounting for sea level rise. Incorporating additional height to account for sea level rise is not permissible in these areas under the current hazards policies. Retaining the 1980s policies poses an adaptation risk to our coastal communities.
- 6. The 1980s hazards policies did not address wildfire risks, and now the updated LCP creates conflicts between fire safety and the protection of ESHA.** The 2019 Implementation Plan includes protections for Terrestrial and other environmentally sensitive habitat areas (ESHA). This strong policy was intended to be accompanied by a corresponding environmental hazards policy that would allow for wildfire defensible space and vegetation management compatible with the protection of ESHA. Without updated hazard policies, the new LCP generally prohibits removal of any vegetation in an ESHA or buffer area without regard to wildfire risk. In the face of the increasing wildfires and the County's expansive high-risk areas, this will likely result in mass non-compliance, especially given the lack of public awareness of the new policies taking effect the very day of the Commission hearing.

For all of these reasons, we respectfully request that the County agree to a good faith working relationship with Commission staff to mirror successful LCP updates similar to Morro Bay. Ideally, the draft policies will be

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<sup>1</sup> Marin County Draft Resolution, July 13, 2021 Board hearing, *available at*: [http://marin.granicus.com/DocumentViewer.php?file=marin\\_c435b353bf46bf24a881a9d1597d2624.pdf](http://marin.granicus.com/DocumentViewer.php?file=marin_c435b353bf46bf24a881a9d1597d2624.pdf)

reviewed and differences resolved *in advance of submission* to the full Commission with a goal that the hazards update the County has promised for January 2022 can be approved as submitted. The County assured the Commission at the 2016 Commission hearing that they would work collaboratively with Commission staff to develop and submit a revised hazards draft on an expedited schedule.

We are concerned there will continue to be needless conflict and further delays in this process. We do not want to end up in a position where the 1980s hazards policies are retained indefinitely. This would result in extensive development and adaptation challenges for the County, as the public would attempt to navigate inconsistent policies (with a 40+ year time gap between them) as our coastal communities prepare to face the greatest challenge of our time. **We need new comprehensive hazards policies based on the best available science for our at-risk coastal communities as soon as possible!** Thank you for consideration of our comments.

Sincerely,



Morgan Patton  
Executive Director



Ashley Eagle-Gibbs  
Conservation Director

cc: Stephanie Rexing, North Coast District Manager, California Coastal Commission  
Sara Pfeifer, Coastal Planner, California Coastal Commission  
Jack Ainsworth, Executive Director, California Coastal Commission