

APPENDIX C

LAND USE POLICIES

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A. INTRODUCTION

Since the previous CEQA analysis of 19 existing sites occurred in 2000, the regulatory requirements for land use consistency determinations under the jurisdiction of a JPA have been clarified.¹ Under Government Code Section 6509, a joint exercise of powers agreement must designate a member agency to which the JPA will look for the restrictions upon its exercise of power. The designated agency in MERA's joint exercise of powers agreement is the County of Marin. Intergovernmental immunity exempts MERA from compliance with the local codes and ordinances of cities, towns, counties, and special districts in which its facilities are located, except where its immunity has been expressly waived by the State Legislature. Accordingly, MERA is only required to comply with the following state and federal land use regulations.

- Marin County Local Coastal Program (LCP) - Units 1 and 2
- California Streets and Highways Code Section 660 *et seq.*
- Federal Aviation Administration (FAA) Height Requirements
- Golden Gate National Recreation Area (GGNRA) General Management Plan (GMP)
- Point Reyes National Seashore GMP
- Olompali State Historic Park (OSHP) General Plan

Of these, only the Marin County Local Coastal Program has specific, relevant policies other than the summaries written in Chapter IV.D. Land Use Consistency. These policies are outlined below.

B. CALIFORNIA COASTAL MANAGEMENT PROGRAM

MERA must comply with the California Coastal Management Program (CCMP), which is administered by the County of Marin through the Local Coastal Program, Units I and II. The relevant policies have been extracted below from those management plans.

¹ *Zack v. Marin Emergency Radio Authority (2004) 118 Cal. App. 4th 617.*

Marin County Local Coastal Program (LCP) Unit I

Habitat Protection

23. Development adjacent to wildlife nesting and roosting areas shall be set back a sufficient distance to minimize impacts on the habitat areas. Such development activities shall be timed so that disturbance to nesting and breeding wildlife is minimized and shall, to the extent practical, use native vegetation for landscaping.
25. Fences, roads, and structures which significantly inhibit wildlife movement, particularly access to water, shall be avoided.
26. Upland grassland feeding areas shall be protected against any significant disruption of habitat values.

Shoreline Protection and Hazard Areas

1. New structures shall be set back from the Bolinas and [Muir] Beach bluffs a sufficient distance to ensure with reasonable certainty that they are not threatened from cliff retreat within their economic life expectancies. Adequate setback distances will be determined from information contained in required geologic reports and the setback formula established below. These setbacks will be of sufficient distance to eliminate the need for shoreline protective works. In view of the fact that the retreat rate varies markedly along the cliffs, and that the life expectancy of different kinds of structures varies greatly, the following formula will be used to determine setbacks from the bluff for new structures: $\text{Setback (meters)} = \text{structure life (years)} \times \text{retreat rate (meters/year)}$. In areas where vigorous sliding is taking place, an additional 15 meters should be added as a safety factor. The retreat rate will be determined by a complete geotechnical investigation which will be required if one or both of the following conditions are met: The building or proposed development site is within 150 feet of the bluff top, or the site is located in stability zones 2, 3, or 4 as indicated on the Slope Stability of the Bolinas Peninsula Study Area map which accompanies Wagner's 1977 report, "Geology for Planning, Western Marin County". This report and accompanying maps is incorporated by reference as part of the LCP.
2. Development shall continue to be required to meet the seismic safety standards of the Alquist-Priolo Act as it has been implemented by the County.

New Development and Land Use

15. In order to protect the unique qualities and character of coastal communities in the Unit 1 coastal zone, historic structures shall be preserved and restored. The following means shall be used to protect and preserve historic structures: a. "Historic areas" shall be established in Stinson Beach and Bolinas. The boundaries of these areas are described and mapped in Appendix F of the Unit 1 LCP. Within these historic area boundaries, all new construction shall conform in scale, design, materials and texture with the surrounding community character...

19. Prior to the approval of any proposed development within an area of known or probable archaeological significance, a limited field survey by a qualified professional at the applicant's expense shall be required to determine the extent of the archaeological resources on the site. Results of such field survey shall be transmitted to the State Historical Preservation officer or his/her designee for comment.
21. Existing development standards and the design review ordinance shall continue to be enforced. The following explicit standards shall apply to selected areas and projects: All new construction in Bolinas, Stinson Beach, and Muir Beach shall be limited to a maximum height of twenty-five (25) feet. To the maximum extent feasible, new development shall not impair or obstruct an existing view of the ocean, Bolinas Lagoon, or the national or State parklands from Highway 1 or Panoramic Highway.
25. For necessary grading operations, the smallest practicable area of land shall be exposed at any one time during development and the length of exposure shall be kept to the shortest practicable time. The clearing of land shall be discouraged during the winter rainy season and stabilizing slopes shall be in place before the beginning of rainy season.
26. Development plans shall include sediment, erosion, runoff controls, and revegetation measures. The following measures shall be included in all cases; additional conditions as required pursuant to Section 23.08.090 of Marin County Code shall also be included where appropriate. Sediment basins... shall be installed at the beginning of grading operations and maintained throughout the development process to remove sediment from runoff waters. All sediment shall be retained on site. The extent of impervious surfaces shall be minimized to the greatest degree possible. Water runoff beyond natural levels shall be retained on-site whenever possible to facilitate maximum groundwater recharge. In order to prevent onsite gullying and downstream erosion of existing stream channels, the velocity of runoff on and off the site shall be dissipated through the application of appropriate drainage controls so that the runoff rate does not exceed the storm water runoff from the area in its natural or undeveloped state for all intensities and durations of rainfall. Grassed waterways are preferred to concrete storm drains for runoff conveyance. Temporary vegetation, seeding, mulching, or other suitable stabilization methods shall be used to protect soils which have been exposed during grading or development. Cut and fill slopes shall be permanently stabilized as soon as possible with native plants or other suitable landscaping techniques. Where topsoil is removed by grading operations, it shall be stockpiled for reuse and shall be protected from compaction and wind or erosion during stockpiling. All debris shall be removed from the site upon the completion of the project. Permit applications for grading which involve cut slopes in excess of 8 feet or fill in excess of 5 feet shall include a report from a registered soils or civil engineer.

County of Marin Local Coastal Program (LCP) Unit II*Agriculture*

4. All land divisions and developments in the APZ shall require an approved master plan showing how the proposed division or development would affect the subject property. In reviewing a proposed master plan and determining the density of permitted units, the County shall make all of the following findings: a. The development would protect and enhance continued agricultural use and contribute to agricultural viability. b. The development is necessary because agricultural use of the property is no longer feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property. c. The land division or development would not conflict with the continuation of agriculture on that portion of the property which is not developed, on adjacent parcels, or those within one mile of the perimeter of the proposed development. d. Adequate water supply, sewage disposal, road access and capacity and other public services are available to service the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream habitats or significantly reduce freshwater inflows to Tomales Bay, either individually or cumulatively. e. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development. f. The proposed land division and/or development will have no significant adverse impacts on environmental quality or natural habitats, including stream or riparian habitats and scenic resources. In all cases, LCP policies on streams and natural resources shall be met. g. Development consists of permitted and conditional uses as authorized in the APZ.
5. As part of the approval of a master plan, the following conditions shall be required: a. All development shall be clustered to retain the maximum amount of land in agricultural production or available for agricultural use development, including all land converted from agricultural use such as roads and residential support facilities, shall be clustered on no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage to be left in agricultural production and/or open space. Development shall be located close to existing roads and shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations. b. Permanent conservation easements over that portion of the property note used for physical development or services shall be required to promote the long-term preservation of these lands. Only agricultural uses shall be allowed under the easements. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that they are retained as a single unit and are not further subdivided. c. The creation of a homeowner's or other organization and/or the submission of agricultural management plans may be required

- to provide for the proper utilization of agricultural lands and their availability on a lease basis or for the maintenance of community roads or mutual water systems.
6. The definition of agricultural uses in the APZ is given below, along with permitted and conditional uses... b. Permitted uses include the following: g. Agricultural uses [such as livestock and poultry; livestock and poultry products; field, fruit, nut, and vegetable crops; and nursery products]. h. One single-family dwelling per parcel. "Parcel" is defined as all contiguous assessor's parcels under common ownership. i. Accessory structures or uses appurtenant and necessary to the operation of agricultural uses, other than dwelling units of any kind, but including barns, fences, stables, corrals, coops and pens, and utility facilities. c. Conditional uses include the following: j. Land divisions, k. Farmworker housing, l. Mobile homes so long as they are used exclusively for employees of the owner who are actively and directly engaged in the agricultural use of the land, m. Hog ranch, n. veterinary facilities, o. Fish hatcheries and rearing ponds, p. Stabling of more than five horses on ranches where horses are the primary or only animals raised, q. Raising of other food and fiber producing animals not listed under (a) above, r. Planting, raising, or harvesting of trees for timber, field, or Christmas tree production, s. Facilities for processing or retail sale of agricultural products, t. Greenhouses, u. Commercial storage and sale of garden supply products, v. Water conservation dams and ponds, w. Mineral resource production, x. Game or nature preserve or refuge, y. Public or private recreational activities, such as hunting, fishing, and camping, z. Bed and breakfast operations in existing structures up to a maximum of 5 rooms, aa. Construction, alteration, or maintenance of gas, electric, water, communication, or flood control facilities, unrelated to an agricultural use, as approved by the appropriate governmental agencies. bb. Dump.

New Development and Land Use

- 3a. The height, scale, and design of new structures shall be compatible with the character of the surrounding natural or built environment. Structures shall be designed to follow the natural contours of the landscape and sited so as not to obstruct significant views as seen from public viewing places. b. Development shall be screened with appropriate landscaping; however, such landscaping shall not, when mature, interfere with public views to and along the coast. The use of native plant material is encouraged. c. Signs shall be of a size, location, and appearance so as not to detract from scenic areas or views from public roads and other viewing points and shall conform to the County's sign ordinance. d. Distribution utility lines shall be placed underground in new developments to protect scenic resources except where the cost of undergrounding would be so high as to deny service.
5. An applicant for development in an area potentially subject to geologic or other hazards as mapped by the County, including Alquist-Priolo earthquake hazards zones, areas subject to tsunami runup, landslides, liquefaction, beach or bluff erosion, steep slopes averaging greater than 35%, or flood hazard areas, shall be required to

demonstrate that the area of construction is stable for development, the development will not create a hazard or diminish the stability of the area, and the development will not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The applicant may be required to file a report by a qualified professional evaluating the geologic conditions of the site and the effect of the development. In addition, as a condition of coastal permit approval, the applicant shall be required to sign a waiver of liability exempting the County from liability for any personal or property damage caused by natural hazards on such properties. b. In coastal bluff areas, new structures shall be set back a sufficient distance from the bluff edge to ensure with reasonable certainty that they are not threatened by bluff retreat within their expected economic lifespans (50 years). The County shall determine the required setback based on information submitted by the applicant, staff investigation, and a geologic report which may be required. The setbacks will be of sufficient distance to eliminate the need for shoreline protective works. c. Development of any kind beyond the required bluff-top setback shall be constructed to ensure that all surface and subsurface drainage shall not contribute to the erosion of the bluff face or the stability of the bluff itself. Surface water shall be directed away from the top of the bluff or handled in a manner which prevents damage to the bluff by surface and percolating water. d. New development shall be sited and designed so that no protective shoreline structures (e.g. seawalls, groins, breakwaters) are or will be necessary to protect the building from erosion or storm damage during its expected economic lifespan (50 years). The applicant may be required to submit a professional geologic report demonstrating that the project conforms to this policy. e. The County encourages PG&E to utilize materials for overhead utility lines which minimize fire hazards to surrounding areas.