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July 23, 2021

Cecily Condon
Sonoma County Permit and Resource Management Department, Planning Division
2550 Ventura Avenue
Santa Rosa, CA 95403

Subject: Sonoma County Draft Local Coastal Program Land Use Plan Update

Dear Ms. Condon:

Thank you for the opportunity to review and comment on the County's proposed update to the Local Coastal Program (LCP) Land Use Plan (LUP). Please provide these comments to the Planning Commission for their initial consideration of this matter (scheduled to be heard at the July 26, 2021 Planning Commission hearing). As you know, the LUP is a key regulatory tool that implements statewide California Coastal Act provisions at the County level to protect, restore, and enhance coastal resources, including by specifying the kinds, locations, and intensities of allowed development and applicable coastal resource protection requirements. Once the LUP and an accompanying Implementation Plan (IP) are certified by the Coastal Commission,¹ thus certifying an updated LCP overall, the updated LCP forms the basis and standard of review for future development within the County.

Accordingly, the County's current LCP update process offers an exciting opportunity to holistically and comprehensively envision and plan for the future of Sonoma County's coastal zone, and to provide a foundation to achieve that future. As you know, we have been actively and directly engaged with you and your staff to help identify issues as early as possible, and to provide recommendations on how to approach the many complicated coastal resource policy decisions facing the County. We have appreciated that collaboration to date, and we commend County staff for your thoughtful efforts on the draft updated LUP. In our experience, this type of early coordination helps to ensure a smoother LCP certification process, including streamlining review and resolution of issues upon submittal to the Coastal Commission for required approval and certification. In that vein, we recognize the hard work the County has invested in developing this draft LUP document and are hopeful that these comments are understood in the manner in which intended; namely to provide as much helpful guidance from our perspective as possible at this juncture, including in response to your specific requests for comments prior to the Planning Commission hearing.

Thus, this letter provides a summary of some of the key issues we've identified in our

¹ The standard of review for an LUP is Chapter 3 of the Coastal Act, and for an IP is the certified LUP.

review of the current draft updated LUP document (provided to us on July 12, 2021), as well as some broad recommendations for how to address these issues. We fully intend to provide more detailed feedback as the LUP update makes it through Planning Commission and Board of Supervisors hearings but wanted to provide at least this initial feedback for now. We hope it is helpful in that process.

Organization

The proposed LUP update clearly provides up-to-date information and important revised policies, but some of its potential effectiveness may be lost due to the current system of organization. Specifically, the policies in the document are organized by topic area, followed by policies categorized as "implementation programs" that are relevant to each of the preceding topic areas. In our view, this policy organization will tend to make the LUP itself potentially confusing and difficult to implement, particularly in relation to the understanding of which policies might apply in each scenario. In our experience, LUPs are clearer and easier to use when policies are organized by general topic areas (e.g., coastal hazards, public views, etc.) rather than sprinkling topical policies throughout each chapter. Once those general topical areas are developed in that way, LUPs can then provide additional detail for case- and/or geographically specific situations that build upon the general framework established, included to provide for any deviations from the general requirements that might be appropriate in any particular case/area. We believe that the draft LUP provides a useful base and starting point for such an organizational structure and would suggest that it be explored.

In addition, the draft LUP includes references to numerous external documents on which the policies rely, without incorporating those documents in full. In our experience cross-references like this can be extremely difficult to manage and understand in an LCP context. For one, there is an argument that these external sources are then made part of the LUP by their explicit reference. If they are intended to govern coastal permitting and planning decisions, that argument is further bolstered. And then there is a counter argument that they are *not* part of the LUP by reference, and thus can be changed outside of an LCP amendment context. Either— and even both in some cases – of these arguments may be applied to any particular case in the future if not clarified in the document now. We would strongly suggest that cross-references are eliminated, and that the relevant substantive requirements be made part of the LUP verbatim. This is the best and clearest way to ensure that the LUP is 'whole' and can be applied to future decisions.

Also, the draft LUP does not include applicable and relevant Coastal Act provisions. We have found that it is often helpful for understanding LUP policies when these Coastal Act provisions, and at least the Chapter 3 Sections of the Act, are also made an enforceable part of the LUP. The LUP is required to be read consistent with the Coastal Act, from which it derives its statutory authority, so that connection is always implied, but we have found it less confusing for LUP users when it is stated explicitly within LUPs, and we would recommend that here too.

Lastly, as I'm sure you're aware and planning to resolve, the draft LUP appears to have

inadvertent typos, and some sentence structure/grammatical issues, that require attention to ensure that the resultant LUP is as clear as possible.

Land Use

The draft updated LUP includes updated and revised land use designations and corresponding zoning districts, but they appear incomplete. For example, there is no recreational zoning associated with the 'Open Space' land use designation; no marine industrial zoning for the 'Commercial', 'Timber', 'Land Extensive' and 'Diverse Agriculture' designations; and visitor serving zoning categories seem to be absent altogether. It appears that these land use designations and zoning districts need to be further fleshed out to ensure that they include all necessary combinations. Also, 'Planned Community' zoning is proposed to be allowed on open space land use designations, which we would suggest may not be appropriate due to the potential for projects of that type to adversely impact coastal resources typically associated with such open space areas. Finally, the 'Land Use Designation' and 'Principally Permitted Uses' figures (on page LU-4) do not have figure numbers, and numbers should be added to ensure implementation clarity.

In terms of principally permitted uses (PPUs), it is important for the County to carefully consider which uses are considered PPUs. And, for purposes of appeal of County CDP decisions to the Commission, the LCP can only identify a single PPU in a zoning district for which County decisions are not appealable under the relevant PPU criterion (i.e., per Coastal Act Section 30603, a CDP decision for any development that does not constitute that single PPU is appealable to the Commission). The single PPU can be a broader use type PPU (e.g., residential in an R-1 district, where a number of different residential projects can be listed as PPUs, meaning there are technically multiple PPUs, but they are all of the residential use type and thus excluded from appeals due to PPUs). If multiple PPU use types are identified for any particular zoning district, then there is no single PPU for purposes of appeal, and CDP decisions for all uses in that zoning category would be appealable to the Commission (unless they are specified as PPUs for some type of internal PPU processing purpose, and explicitly not the single PPU for purposes of CDP appeal to the Commission). We can help provide further guidance on this topic, but it is critically important in terms of potential future CDP appellate processes, and should be clearly thought through with this in mind.

The allowable densities listed in the Urban Residential Areas table (specifically 1-6 units per acre in low density and 6-12 in medium) have been increased from the currently allowable densities (specifically in R-1, 1-4 units are allowed, and in R-2, 5-8 units). The County should provide rationalization for these increased allowable densities, including showing that properties in these categories are capable of supporting such densities without coastal resource impacts. Additionally, any provisions regarding increased densities related to affordable housing (see for example Policy C-LU-5c) must clearly indicate that state density bonus and accessory dwelling unit laws do not supersede the resource protections required by the Coastal Act. We have examples of LCP language from other LCPs that we would be happy to provide on this point.

Finally, the current draft of the LUP's Land Use chapter seems to be missing some key policies that were present in the last draft we reviewed. Such policies include (numbered by reference numbers from prior draft): C-LU-5u, regarding retention of adequate water and sewer for affordable housing units, and C-LU-5dd encouraging development of employer provided affordable housing. The County should clarify whether these omissions were purposeful and if so, what that means for the current land use provisions regarding such affordable housing (e.g., if these concepts are somehow covered elsewhere).

Agriculture

With regards to the proposed updated LUP's Agricultural Resources chapter, it will be important to clarify whether both agricultural zoning districts (i.e., Diverse Agriculture (DA) and Land Extensive Agriculture (LEA)) will be treated the same in terms of allowable uses, conversion, and other requirements. As there are only one set of policies in this chapter, it appears as though the two districts will be handled identically, although this hasn't been directly addressed to date. In terms of conversion policies, proposed policy C-AR-1.1 states: "Avoid the conversion of agricultural lands to residential or non-agricultural commercial uses." The draft LUP should clarify whether this means that no conversions of agricultural land will be permitted. If that is not the case, and some conversions will be permitted, additional policies should be incorporated to this point, including regarding evaluation, and mitigation, consistent with Coastal Act Sections 30241, 30241.5, 30242 and 30243.

Open Space and Resource Conservation

For the Biotic Resource Protections section of the Open Space and Resource Conservation (OSRC) chapter, some important policies were omitted since the last time we reviewed the draft documents. Specifically, all of the following have been omitted: the policy requiring designation of environmentally sensitive habitat areas, as well as requirements to update such designations (this was Objective C-OSRC-6.2); the protections for native plants and trees; encouraging the use of natives and voluntary restoration; the required preservation and restoration of wetlands and marshes; the requirement to promote production of native habitats marine and shoreline (these were policies 6.6-6.10); all the policies regarding development allowed within and near to streams and riparian corridors (in last draft Policies C-OSRC-8m through 8q); and the policy regarding requirements for initial site inventories for wetland species or indicators (Policy C-OSRC-9c in last draft). These may have been inadvertently dropped, but they all provide important guidance and requirements related to coastal resource protection, and we would recommend they (or variations thereto) be added back to the draft document.

In addition, there are many references and cites within the OSRC chapter to other documents that apparently contain important requirements for habitat restoration and monitoring, biological resource assessment requirements, ESHA buffer requirements, wetland delineation guidance, and habitat protection guidelines (such as Appendix E-1 through E-5, respectively), as well as development guidelines for allowable uses within habitats. However, the actual cited documents have not been provided. We will have

further comments on these once we have seen them.

Under the 'Energy Resources Policy, Climate Change' section of the OSRC chapter, the discussion on sea level rise, storm surge, and extreme events has been removed. While this may be redundant to some discussions within the Public Safety chapter, this discussion did provide important context in the OSRC chapter, and the County should consider adding it back in. Relatedly, the last draft contained benchmarks and goals for reduction of greenhouse gas emissions that have also been removed (from the currently numbered Objective C-OSRC-11.4), and we recommend that these too be added back to the draft document.

Finally, as you are well aware, the Sonoma County coastline is an irreplaceable visual resource with limited equals, and it demands LUP protections up to the task of protecting, and enhancing, these viewsheds. Although the draft LUP recognizes these issues, it also could benefit from a closer look to ensure that protections for these visual resources are tightened in the context of all cases. In addition, we would strongly recommend that the LUP include a 'critical viewshed' construct, similar to what is applied to the Big Sur Coast LUP in Monterey County. Namely, in Big Sur, development is not allowed to be *visible* to the naked eye from public viewing areas. While there are some exceptions (e.g., for already developed areas and towns, road-related development, parking areas, etc.), this set of critical viewshed policies has helped to retain that natural rugged viewshed, and we would suggest that it would be a valuable tool here to the goals Sonoma County has currently laid out in the draft document. We would also suggest that complementary policies be developed that are directed at the Highway 1 viewshed in particular, that ensure that any allowed visible development is sited and designed to *avoid* and limit visual impacts, and to *'disappear'* as much as possible. We have all seen the cases when inappropriate development is introduced in a visually stunning landscape, including relatively minor such development (e.g., gates, fences, and similar roadside development) which can have significant direct, as well as cumulative, impacts along this critical corridor, and the LUP needs strict policy requirements to ensure the view is protected, including as it relates to the Highway itself as a defining element of that view. We would very much be interested in a conversation about possible policies and related tools that can take coastal zone view protection to a higher level; the Sonoma County coast deserves no less.

Public Access

In terms of policies in the Public Access chapter, we are concerned that as drafted there could be a loss of free public access parking in public rights-of-ways and parking areas otherwise. As you well know, parking along the coast is critical to the ability of the public to access and enjoy the County's coastal zone, including because it is often the only way that coastal visitors can enjoy these areas due to their remote nature. This type of parking is limited, and it is critical it be retained so that visitors not lucky enough to live near the shoreline, including of course other County residents from more inland areas, are also allowed access to the coast. Parking costs can also be a significant barrier to such access, particularly for those least able to afford it and who are disproportionately burdened by such costs. We know that the County supports access for all, and we

would strongly recommend that the LUP include explicit requirements to not only retain existing free public parking as *free public* parking, but to also enhance free public parking opportunities, and seek to ensure that adequate such parking is provided at levels commensurate with expected need and use. If any fees are currently charged, they need to be the exception to the rule, and should be eliminated if possible, and otherwise be low enough to avoid adverse coastal access impacts, to include free and discounted provisions for all who need them, and to ensure that any revenues are directly targeted to improve the resource being accessed in the first place. We believe that these sorts of measures are required in order to maximize affordability and access opportunities for all residents and visitors to the coast, consistent with the mandates of the Coastal Act.

Finally, given the County's clear vision to create a continuous trail system for the California Coastal Trail (CCT), we strongly recommend that prescriptions and policies be provided that acknowledge and require the development of a viable off-road CCT through Sonoma County. In addition, the chapter should include provisions to help adapt the County's beaches, coastal accesses, trails, and other public access amenities to sea level rise.

Water Resources

On Water Resources, the chapter needs a better explanation of the primary sources of water for Sonoma County; whether there are issues regarding water supply, availability, and sustainability; and policies and provisions that address identified issues. In our experience these types of issues can be key LCP issues, and the LUP needs to provide explicit direction on how they are addressed in coastal zone permitting and planning contexts. We would be happy to provide examples of LCP policies that have proven useful in other jurisdictions in this regard.

Public Safety

We last provided feedback regarding the Public Safety policies of the draft LUP in a letter dated May 28, 2019, much of which will be reiterated. We previously emphasized that the Public Safety chapter needs to clearly explain how different hazard types and associated policies would apply, and to indicate that proposed development must be sited and designed to appropriately address and resolve coastal hazards and coastal hazards constraints to development over the short- and longer-term without reliance on shoreline armoring, and we continue to encourage this structure. Further, we'd note that this chapter uses three related terms to describe redevelopment: *redevelopment*, *coastal redevelopment*, and *blufftop redevelopment*, only the latter of which is defined within the Public Safety chapter itself. To avoid confusion regarding this term, we would strongly recommend using only one term (either "redevelopment" or "coastal redevelopment"), which would measure redevelopment cumulatively from the effective date of the Coastal Act (January 1, 1977). We would be happy to provide examples of policies that have worked in other LCP contexts if it would be useful to your efforts on these points.

Acceptable risk is also mentioned frequently in the document as a standard by which to

allow development, however, the “determination of acceptable risks” section does not specify that in order to be “acceptable,” the applicant is required to provide evidence that the development would not cause damage or substantial adverse impacts on coastal resources, as it does in policy C-PS-1e. We recommend that the County explicitly define this term as stated, or define what is *acceptable* under each of the varying scenarios rather than rely on this vague terminology. We also would recommend the County consider adding a policy that addresses the prospect of redevelopment in unique situations where properties cannot be adequately or safely setback or are already occupying lands in the public trust. Again, we can provide examples if useful.

In addition, other concerns on this chapter include: 1) policies that are requirements need to be stated as “shalls”, and not as “encourage” or “consider,” as the use of this type of terminology will make these policies not actionable; 2) policies need to better mirror Coastal Act language and required analyses regarding when shoreline armoring is permissible, and required mitigation for such devices if and when permitted; and 3) policy C-PS-13 references reconstruction of damaged structures above base flood elevation, which is problematic as the base flood elevation will continue to increase with sea level rise, and this policy does not take that into account. All of these need to be addressed in future iterations of the draft document.

Circulation and Transit

As you know, the coastal zone of the County includes an incredibly dynamic shoreline, much of which is served solely by Highway 1. Thus, circulation and transit along that corridor are incredibly important, both for residents and visitors. While the proposed updated LUP recognizes these issues, we believe it could be much stronger in terms of addressing the challenges thereto. Specifically, the Circulation and Transit chapter needs to include more discussion of sea level rise issues and adaptation measures, in particular in terms of options including living shorelines, roadway elevation, other softer shoreline solutions, monitoring coastal erosion to identify segments of Highway 1 that need to be realigned, provisions for when temporary armoring may be permitted, and how flooding from sea level rise may impact access amenities. Ideally, different prescriptions for different sections of coast would be provided. In addition, safety projects need to be more specifically defined, and policies related to safety improvements must be balanced with other resource constraints and protections as provided for in the Coastal Act and other sections of the LCP. Please ensure that the Caltrans maintenance guidelines are added to the LUP, and we would strongly suggest working directly with Caltrans on policies that affect their interests well in advance of finalizing the draft LUP.

In addition, we believe that the document's current vision for increasing and enhancing transit options to and along the coast can be enhanced with more prescriptive policies regarding establishing levels of transit by explicit benchmarks. This can help with the parking issues mentioned, and also obviously in terms of County and statewide goals when it comes to greenhouse gas emissions. Applicable development review policies are required to provide off-street parking, with some other more transit or bicycle and

pedestrian-focused policies. While such off-street parking is critical in the absence of adequate alternatives, like transit, for ensuring that on-street public parking is used for public purposes, and so that private development does not adversely impact public access, we would recommend an enhanced focus on requiring non-automobile options and alternatives, both in individual projects and more broadly, and to provide actionable policies and metrics to actually require such changes to be made in the context of coastal permitting and planning cases.

Cultural Resources

In terms of Cultural Resources, we encourage the County to reach out to the Tribes and Nations with ancestral ties to these lands and waters, if it has not already done so. These entities need to have an opportunity to look at the draft LUP document, especially chapter 10, before it is approved to ensure there are no adverse effects to their rights or resources (some of which may not be specifically outlined in treaties or other laws/regulations). In addition, the definition of "cultural resources" should clarify that "tribal cultural resources" can include (but are not limited to) viewscapes and living vegetation/species used for cultural practices and subsistence.

Policy C-CH-1a is a good policy regarding referring applications to the Northwest Information Center at Sonoma State, however, there should be a similar policy regarding notifying, referring, and consulting with known Tribes local to the area for any projects proposing new ground disturbance. Then, as to Policy C-CH-1f, it needs to be made clear that sampling and salvage must also be coordinated with the appropriate Native American representatives (those with ancestral ties to the area are preferable). Oftentimes these artifacts end up in museums rather than with the appropriate Tribe/Nation where they originated and with whom they belong. Therefore, there should be standards related to how the artifacts will be kept/taken care of, that should be devised in coordination with the appropriate Tribe/Nation.

In closing, we again thank you and your staff for the thoughtful and collaborative work to-date and appreciate and commend the County for moving forward with the difficult task of updating the LCP's LUP. We also very much look forward to further collaboration, and helping the County to refine the draft LUP, and a future draft IP, including in the ways identified in this letter. We hope these comments help move us forward to this end. If you have any questions or would like to discuss these matters further, please don't hesitate to contact me.

Sincerely,

DocuSigned by:

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Stephanie Rexing
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California Coastal Commission