



County of San Mateo

Inter-Departmental Correspondence

Department: PLANNING AND BUILDING

File #: 20-504

Board Meeting Date: 7/7/2020

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: Consideration of a Local Coastal Program Amendment: (1) Zoning Regulations Chapter 21A Planned Agricultural District and Chapter 36 Resource Management-Coastal Zone, and (2) Chapter 4 of the Subdivision Regulations to grant relief from agricultural/conservation open space easements and maximum parcel size requirements when public agencies propose land divisions for purposes of public recreation in the Coastal Zone.

RECOMMENDATION:

Recommendation to:

- A) Adopt an ordinance amending the San Mateo County Local Coastal Plan through (1) amending text to Division VI, Part 1 of the County Ordinance Code (Zoning Regulations), Chapter 21a Planned Agricultural District (PAD); (2) amending text to Division VI Part 1 of the County Ordinance Code (Zoning Regulations), Chapter 36 Resource Management-Coastal Zone (RM-CZ); (3) amending text to Division VI, Part 2 of the County Ordinance Code (Subdivision Regulations), Chapter 4 Exactions, Article 9 Agricultural Protection in the Planned Agricultural District and (4) amending text to Division VI, Part 2 of the County Ordinance Code (Subdivision Regulations), Chapter 4 Exactions, Article 10 Open Space Preservation in the Resource Management/Coastal Zone district, previously introduced at the May 27, 2020 meeting of the Planning Commission, and waive the reading of the ordinance in its entirety; and
- B) Adopt a resolution directing staff to submit Local Coastal Program amendment amending: (1) Zoning Regulations Chapter 21A Planned Agricultural District and Chapter 36 Resource Management-Coastal Zone, and (2) Chapter 4 of the Subdivision Regulations to the California Coastal Commission for review and certification.

BACKGROUND:

Project Scope

Applicants, Midpeninsula Regional Open Space District (MROSD) and Peninsula Open Space Trust (POST), have applied for a Local Coastal Program (LCP) text amendment in order to facilitate their policies/programs of open space preservation and restoration, development of low-intensity public trail networks, and securing and sustaining farmland within the County. The focused text amendment provides relief from two requirements, easements and maximum parcel size, within the Zoning and Subdivision Regulations and are only applicable to public agencies proposing land divisions (i.e., lot line adjustments, subdivisions) for the purpose of providing public recreation within the Coastal Zone.

The applicants' request to amend the LCP is a result of due diligence review of future MROSD/POST lot line adjustments and subdivisions where property boundaries will be adjusted in order to establish new trails and connect trails between preserves while improving and protecting farmland. Current regulations language prevents the applicants from carrying out these and similar future projects because of the following zoning and subdivision requirements for agricultural/open space easements and maximum parcel size:

1. The Planned Agricultural District zoning regulation requires parcels included in land divisions to be identified as "agricultural" or "non-agricultural" and for "agricultural" parcels to be restricted by an agricultural easement granted to the County, in perpetuity, to only the following uses: agriculture, development customarily considered accessory to agriculture, and farm labor housing.

Where a public agency could accommodate both agricultural uses and public recreation on an "agricultural" parcel, this provision prohibits public recreation on such parcels.

2. The Planned Agricultural District zoning regulation restricts the "non-agricultural" parcel size to be as small as possible and no larger than 5 acres if for residential purposes.

This provision restricts a public agency's ability to accommodate public recreation and in-park ranger housing on parcels larger than 5 acres.

3. The Resource Management-Coastal Zone zoning regulation requires parcels resulting from land divisions to be restricted by a conservation open space easement granted to the County, in perpetuity.

This provision requires a public agency to restrict development to open space (e.g., undeveloped, in a natural state) and limits a public agency from providing in-park ranger housing.

4. The Subdivision Regulations requires the granting of the easements for both zoning districts as noted above and cross-references the requirements of the Planned Agricultural District which include the maximum 5-acre parcel size restriction.

For consistency with the proposed amendments, applicable sections of the Subdivision Regulations are proposed for amendment.

The text amendment will affect the following Regulations chapters:

1. Zoning Regulations: Chapter 21A Planned Agricultural District (PAD).
2. Zoning Regulations: Chapter 36 Resource Management-Coastal Zone (RM-CZ).

3. Subdivision Regulations, Chapter 4 Exactions, Article 9 Agricultural Protection in the Planned Agricultural District.
4. Subdivision Regulations, Chapter 4 Exactions, Article 10 Open Space Preservation in the Resource Management/Coastal Zone District.

LCP Amendment and Coastal Act/LCP Consistency

The Local Coastal Program consists of a Land Use Plan and an Implementation Program (or Plan) that carry out the policies of the Coastal Act. The Land Use Plan consists of general land use plans and objectives, maps, and policies and establishes the policy basis for regulating the type, intensity, and location of land uses within specific geographic areas of the coastal zone. The Implementation Plan consists of the ordinances, zoning regulations and maps, among others that carry out the Land Use Plan. Both the Land Use Plan and Implementation Plan have been certified by the California Coastal Commission as being adequate to carry out the California Coastal Act at the local level (aka the Local Coastal Program). Though this project does not change any language within the Land Use Plan, the amendments to the Zoning and Subdivision Regulations (Implementing Plans) constitute an LCP amendment and will require certification by the California Coastal Commission.

In proposing this amendment, the applicants seek consistency with the California Coastal Act (Section 30106) and the County's LCP (Policy 1.2) which identifies and prioritizes the need for public recreation within the Coastal Zone and provides an exception from Coastal Development Permits for public agencies when proposing land divisions for public recreation purposes. In these instances, public agencies are not required to obtain Coastal Development Permits but are still required to obtain land division permits consistent with the Subdivision and Zoning Regulations and General Plan.

The proposed focused amendment grants relief to the restrictive provisions applicable to lands zoned PAD or RM-CZ to public agencies proposing land divisions for public recreation purposes only. With the exception of the requested amendment, all other permit requirements and policies remain unchanged and the ability of the Planning Commission and Board of Supervisors to review and condition future development projects remains the same.

STANDARDS AND PROCEDURES

In order to certify the LCP amendments, the California Coastal Commission (CCC) will need to determine that the proposed amendments to the LCP Implementation Program (i.e., the PAD and RM-CZ Zoning and Subdivision Regulations) are consistent with, and adequate to carry out, the LCP Land Use Plan, including all applicable LCP Policies. In the event that the CCC determines that the proposed text amendments do not meet the relevant standards, it may suggest modifications to the text amendments that, if agreed to by the County, will achieve conformity and thereby enable amendment certification. The CCC's decision to certify the amendments as submitted or if modified will be transmitted back to the County, and the amendment will take effect after the Board of Supervisors acknowledges the CCC's certification and acts to accept any modifications suggested by the CCC. In order to construct any future project enabled by these text amendments, the public agency owner(s) of the property(ies) will need to apply for, and obtain, any other applicable development permits from San Mateo County. Such future permit application(s) will be subject to review and approval at a public hearing, based on the project's conformity to the amended regulations, as well as any project specific environmental clearance that may be required under the provisions of the California Environmental Quality Act (CEQA). At that time, and on a project specific

basis, the decision maker can determine what conditions of approval may be required to achieve consistency with the LCP Land Use Plan/Policies.

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Applicants: Midpeninsula Regional Open Space District (MROSD) and Peninsula Open Space Trust (POST).

Owners: Public agency landowners (applicable to public recreation projects when land divisions are proposed).

Location: See Attachments C and D.

APNs: Various.

Parcel Size: Various.

Existing Zoning: Planned Agricultural District (PAD) and Resource Management-Coastal Zone (RM-CZ).

General Plan Designation: Various. See Attachments C and D.

Existing Land Use: Various.

Environmental Evaluation: Section 21080.9 of the California Public Resources Code - within the California Environmental Quality Act (CEQA) - exempts local government from the requirement of preparing an Environmental Impact Report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Environmental review of the proposed LCP amendment will be conducted by the California Coastal Commission, in conjunction with its review of the proposed LCP Amendment, in a manner that has been determined to be the functional equivalent of California Environmental Quality Act.

Setting: The Coastal Zone boundary encompasses approximately 92,943 acres. Within this Coastal Zone, approximately 80,986 acres are zoned PAD and RM-CZ. Specifically, 68,176 acres are zoned PAD and 12,804 are zoned RM-CZ. See Attachments C and D.

Chronology:

Date Action

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|---------------|---|---|
| 1980 | - | The California Coastal Commission certifies the County's LCP, which was the first LCP prepared by a County that was certified by the CCC following the passage of the California Coastal Act. |
| July 10, 2019 | - | Application for zoning and subdivision text amendments submitted by project applicants. |
| December 2019 | - | Phone call consultation with the California Coastal |

Commission staff to identify any concerns regarding the amendment. No concerns were identified during the call.

- January 6, 2020 - Informational and consultation meeting with the San Mateo County Farm Bureau (Farm Bureau) at their public hearing. Concerns expressed at that meeting are discussed further in Section B.
- January 13, 2020 - Informational and consultation meeting with the Agricultural Advisory Committee (AAC) at their public hearing. Concerns expressed at that meeting are discussed further in Section B.
- February 11, 2020 - Informational and consultation meeting with the Pescadero Municipal Advisory Council (PMAC) at their public hearing. Concerns expressed at that meeting are discussed further in Section B.
- February 12, 2020 - Informational and consultation meeting with the Midcoast Community Council (MCC) at their public hearing. Concerns expressed at that meeting are discussed further in Section B.
- May 27, 2020 - Planning Commission hearing. The Planning Commission unanimously recommended approval and submission of the LCP amendment to the Coastal Commission.
- July 7, 2020 - Board of Supervisors hearing.

DISCUSSION:

A. KEY ISSUES

1. Consistency of Implementation Plan Amendment with the California Coastal Act

Amendments to the County’s LCP must be consistent with the requirements of the California Coastal Act (CA). In this case, the proposed amendments modify regulations contained within the County’s certified LCP Implementation Plan (i.e., the proposed text amendments to the PAD, RM-CZ, and Subdivision Regulations), but do not modify the policies, maps, or land use designations established by the County’s LCP Land Use Plan (LUP).

The proposed amendment is consistent with the LUP because the amendments are narrowly crafted to provide relief from easement and parcel size requirements to public agency projects that facilitate public

recreation. This is consistent with LUP and CA goals, namely, the objective to “*maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners*” [Section 30001.5].

Further, the proposed amendment is consistent with CA Section 30106, which defines “development” as *the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the*

Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use;

Due to the fact that the CA contains an exemption from CDP requirements for land divisions by public agencies that enhance public access and recreation opportunities, it is reasonable to conclude that the proposed LCP amendment, which exempts the same type of projects from locally established PAD, RM-CZ, and subdivision requirements, is consistent with the CA and the LUP.

CA Chapter 3 *Coastal Resources Planning and Management Policies* outlines the standards by which the adequacy of local coastal programs are determined. Consideration of the effect of actions on coastal zone resources shall be made to assure these policies are achieved. Section 30200(b) states that where a local government, in implementing the provisions of the CA, identifies a conflict between the policies of its Code, it

shall be resolved, and that the resolution of such conflicts shall be supported by appropriate findings.

The proposed text amendment is found to support and meet the following goals and policies of CA Chapter 3 *Coastal Resources Planning and Management Policies*:

CA Section 30001(d): *That existing developed uses, and future development that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.*

CA Section 30001.5(a): *Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.*

CA Section 30001.5(c): *Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.*

The proposed amendments are consistent with these findings because the amendments continue to allow for a balance between appropriate land uses. The ability of agricultural users such as farmers and ranchers to continue to use agricultural lands will be assured through the permitting process and the specific, negotiated land use agreements prepared between an agricultural tenant and a public agency property owner.

Further, the proposed text amendments do not preclude nor prevent the establishment of additional assurances that can be put in place to preserve and protect prime agricultural lands (CA Section 30241 *Prime Agricultural Land; Maintenance in Agricultural Production*), as may be required by permits and private lease agreements.

Additionally, MROSD works in collaboration with the San Mateo County Farm Bureau through an adopted Memorandum of Understanding (MOU, see Attachment F).

Midpeninsula Regional Open Space District consults with the Farm Bureau to ensure open space recreation and public access is planned and managed to avoid adverse impacts to adjacent agricultural operations. The proposed amendment supports the social well-being of the state by maximizing new useable, outdoor public recreational areas for use by the community, in a manner that is protective of natural and agricultural resources.

2. Consistency of the Zoning and Subdivision Text Amendments with the San Mateo County Local Coastal Program

As discussed previously, the LCP consists of a Land Use Plan and Implementation Plan that carry out the policies of the California Coastal Act and that have been certified by the CCC as adequate to carry out the California Coastal Act at the local level. Within the Implementation Plan of the County's LCP are the Zoning and Subdivision Regulations, among others. By reference, all LCP policies are adopted within Zoning Regulations Chapter 20B *Coastal Development (CD)*. The CD Zoning District is an "overlay" district whose regulations apply in addition to those of the "base" zoning district, such as the PAD and RM-CZ. It is noted that the same language found in the CA and LCP regarding the definition of development is found within the CD Overlay District. Thus, the proposed amendments are consistent with Zoning Regulations CD Overlay District.

Staff's analysis of the proposed text amendments consistency with, and ability to adequately carry out the LUP is provided below:

Component 1. Locating and Planning New Development

The proposed text amendments remove the 5-acre maximum parcel size requirement and the requirement for a public agency to grant to another public agency, the County, an easement restricting land uses as part of subdivision final map recordation. Again, the text amendments are only applicable to public agencies when proposing land divisions for public recreation purposes. Cities and Counties in California, each having governing general plan policies and other implementing land use regulations vetted and adopted through public processes, are required by State law to have seven state-mandated general plan elements which include Land Use, Open Space, and Conservation, among others, that provide agricultural and natural resources protections. Removal of the maximum parcel size and easement requirement does not relinquish the County from providing these protections found within its own general plans and regulations nor does it override the requirement to conform to the General Plan. The text amendments also do not remove the County's authority to process land division permits, as allowed under state law, and to require conformance with existing General Plan, Zoning, and Subdivision policies protecting prime agricultural lands and restricting land division and development densities, thus the text amendments are consistent with the Local Coastal Program.

Component 5. Agriculture

Protections for conversion and division of prime agricultural lands and lands suitable for agriculture, such as limitations on maximum land density of development, restrictions on permitted uses, and required buffers remain unchanged as a result of the proposed text amendments. The requirement for a public agency to submit a Master Land Division Plan (how a parcel will be divided according to

maximum density of development permitted) remains. Removal of the easement requirement does not preclude a public agency applicant from implementing and monitoring agricultural, affirmative agricultural, or conservation easements with private tenants, as they may in order to reduce liability, costs, and identify allowed and prohibited uses while providing agricultural and natural resources protections. The County, in its role as permitting authority for development projects, will request to review easement language to ensure agricultural uses, operations, and protections are consistent with LCP policy and regulations.

3. Consistency of Zoning and Subdivision Text Amendments with the San Mateo County Zoning and Subdivision Regulations

The proposed Zoning and Subdivision text amendments are intended to implement both the California Coastal Act and Local Coastal Plan in an internally consistent manner and in accordance with state law. Each of the proposed affected zoning districts, PAD and RM-CZ, as well as the two sections of subdivision regulations are discussed below. For each, the goals and purpose are described in brief, a staff response is provided, as well as a summarized version of the proposed text amendments. Proposed text is shown **bold**, *italicized*, and underlined, while proposed deleted text is shown ~~strikethrough~~. The full, proposed text amendments are presented in Attachment B.

a. Zoning Regulations - Planned Agricultural District

Within the PAD Zoning District of the zoning regulations there are three sections of proposed text amendments, summarized below:

(1) Section 6363.B. Parcel Size. Non-Agricultural Parcels

“For any parcel created after the effective date of this regulation which is to be used for non-agricultural purposes, the parcel size shall be determined on a case-by-case basis to ensure that domestic well water and on-site sewage requirements are met. **Except for any parcel included in a land division brought about in connection with the purchase of lands by a public agency for public recreational use,** nN on-agricultural parcels shall be as small as possible, and when used for residential purposes shall not exceed 5 acres.”

(2) Section 6364.A. Procedural Criteria for Issuance of a Planned Agricultural Permit. Master Land Division Plan

“Before any division of land, the applicant shall file a Master Land Division Plan demonstrating how the parcel will be ultimately divided according to maximum density of development permitted and which parcels will be used for agricultural and non-agricultural uses if conversions are permitted. **Except where the land division is brought about in connection with the purchase of land by a public agency for public recreational use,** dDivision for non-agricultural parcels shall be as small as practicable, not to exceed 5 acres.”

(3) Section 6364.B. Easements on Agricultural Parcels

“After a Master Land Division Plan has been filed, and as a condition of approval thereof, the applicant shall grant to the County (and the County shall accept) an easement containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to agricultural uses, non-residential development customarily considered accessory to agriculture (as defined in Section 6352C and D of this regulation) and farm labor housing. **Easements shall not be required for any parcels included in a land division brought about in connection with the purchase of land by a public agency for public recreational use.**”

It is the purpose of the PAD Zoning District to: (1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and (2) minimize conflicts between agricultural and non-agricultural land uses.

The limited scope of the amendment retains language that enforces boundaries and/or buffer areas separating any future public recreation use from agricultural, ancillary housing and/or other supportive agricultural uses, and prohibits and/or limits conversion and/or possible impairment of productivity of agricultural lands, through project review of an associated PAD permit, including a Master Land Division Plan (MLDP) which is required for all land divisions.

Master Land Division Plans are intended to preserve and foster existing and potential agricultural operations in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production and to minimize conflicts between agriculture and non-agriculture land uses.

Existing PAD criteria would prohibit public recreation on a parcel identified for agriculture on a MLDP and restrict the non-agriculture parcel for housing and public recreation to be no more than a 5-acre parcel size. The proposed text amendments would allow agricultural, housing, and public recreational uses to be accommodated on a larger parcel, provided agriculture and other natural resources are protected. This would preserve agricultural land, as well as the ability to provide buffers, thus minimizing conflicts between agricultural and public recreation uses due to larger parcel sizes.

As this text amendment relates to the applicants, MROSD is bound by their Coastal Service Plan, Agricultural Use Policy statement, existing MOU with the San Mateo County Farm Bureau, and other adopted policy manuals as additional instruments to assure implementation of such agricultural goals and guidelines, see attachments.

No further changes to the existing regulations pertaining to permitted uses, PAD criteria, maximum density of development, procedural criteria or any other outlined design and/or development standard would result from the proposed text amendments.

b. Zoning Regulations - Resource Management-Coastal Zone District

Within the Resource Management-Coastal Zone (RM-CZ) Zoning District there is one section of proposed text amendment, summarized below:

(1) Section 6906.1. Conservation Open Space Easement

“Require, after any land divisions, that the applicant grant to the County (and the County to accept) a conservation easement containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to uses consistent with open space (as defined in the California Open Space Lands Act of 1972 on January 1, 1980). **Easements shall not be required for any parcels included in a land division brought about in connection with the purchase of land by a public agency for public recreational use.**”

The California Open Space Land Act (Act) of 1972, being amended over the years, is incorporated and implemented through the County’s General Plan and Zoning Regulations. The Act (Government Code Section 65560) defines “open-space land” as *...any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional or state open-space plan as any of the following: Open space for the preservation of natural resources, ... managed production of resources, ... outdoor recreation.*

As defined, there is ambiguity on whether a public agency could provide ranger housing to manage proposed public recreation on lands designated for open space uses. Further, and as discussed previously, the County’s adopted General Plan and other regulatory instruments will provide agricultural and natural resources protections, and the County’s continued permit authority will ensure local policies and regulatory protections are adhered to such that the easement requirement is duplicative and unnecessary.

It is noted that the non-coastal Resource Management (RM) Zoning District provides a similar exemption to the applicants’ requested text amendment, in that a public agency land division for purposes of open space or public recreation is exempt from easement requirements and that the RM District also does not set a maximum parcel size requirement.

It is the purpose of the RM-CZ District to carry out the objectives and policies of the County’s Open Space and Conservation Elements, which are incorporated in the County’s General Plan (GP). The Open Space and Conservation Element contains the following applicable policies to consider in the context of the proposed application:

GP Policy 6.12 *Minimize Agricultural Land Use Conflicts*. Preserve the best agricultural land for agricultural uses. On other lands capable of supporting agriculture, permit the location of park and recreation facilities when efforts are made to lease land not needed for recreational purposes to farm operations, and clearly defined buffer areas such as strips of land are established between these two uses to minimize land use conflicts.

GP Policy 6.48 *Role of the Midpeninsula Regional Open Space District*. Encourage the Midpeninsula Regional Open Space District to acquire, protect, and make available for public use open space lands in rural areas and open space of regional significance in urban areas in cooperation with San Mateo County.

GP Policy 9.28 *Encourage Existing and Potential Agricultural Activities*. (a) Encourage the continuance of existing agricultural and agriculturally related activities; (b) Encourage agricultural activities on soils with agricultural capability which are currently not in production; (c) Consider agricultural land use designations for parcels which have existing agricultural activities, or which contain soils with agricultural capability that are presently designated General Open Space, during future review of area plans; (d) Consider open space designations for agricultural parcels that are no longer capable of agricultural activities during future reviews of area plans.

GP Policy 9.35 *Encourage Existing and Potential Public Recreation Land Uses*. (a) Encourage the continuation and expansion of existing public recreation land uses on non-agricultural lands, including but not limited to, public beaches, parks, recreation areas, wild areas, and trails; (b) Encourage the continuation and expansion of agricultural activities within the boundaries of public recreation lands that are not in recreational use; (c) Encourage cooperation between public agencies and adjacent agricultural operations so as to reduce inconvenience to agriculture.

GP Policy 9.36 *Development Standards to Minimize Land Use Conflicts in Public Recreation Lands*. (b) Consider agriculture to be a compatible activity in public recreation lands, which must be protected and buffered from significant public intrusion; (d) Provide structural, visual, auditory and other buffering mechanisms to protect portions of the public recreation lands that are used by the public from non-recreational land uses; (e) Encourage public recreation providers to submit master park development plans for the design and management of recreational and non-recreational land uses; (g) Encourage the State to protect agricultural activities.

GP Policy 9.41 *Criteria for the Division of Lands Designated General Open Space*. Wherever possible in areas designated General Open Space, design land divisions to retain large areas without development in order to protect resources and maintain the scenic quality and open space character of the rural area.

The amendments will further the policy of encouraging MROSD to acquire land for purposes of public recreation while balancing open space, public recreation, and the protection of prime agricultural lands through the County's continued development permit and public review requirements of the respective zoning and subdivision regulations. It is also noted that these amendments do not alter permitted uses, development review criteria for location of development, maximum density of development, procedural criteria, or any other outlined design and/or development standard.

c. Subdivision Regulations Chapter 4, Exactions, Articles 9 and 10

(1) Within Chapter 4, Article 9, *Agricultural Protection in the Planned Agricultural District*, there is one section proposed for modification, as summarized below:

Section 7067. Exemptions

(a) Pursuant to LCP Policy 5.14b, the requirement to grant an agricultural protection easement does not apply to subdivisions that solely provide affordable housing, as defined in Section 7008.

(b) Pursuant to LCP Policy 1.2, the requirement to grant an agricultural protection easement does not apply to any parcel included in a land division brought about in connection with the purchase of land by a public agency for public recreational use.

(2) Within Chapter 4, Article 10, *Open Space Preservation in the Resource Management/Coastal Zone District*, there is one section proposed for modification, as summarized below:

Section 7071. Exemptions

(a) Pursuant to LCP Policy 1.9b, the requirement to grant a conservation/open space easement does not apply to subdivisions that solely provide affordable housing, as defined in Section 7008.

(b) Pursuant to LCP Policy 1.2, the requirement to grant a conservation/open space easement does not apply to any parcel included in a land division brought about in connection with the purchase of land by a public agency for public recreational use.

The purpose of Exactions is to provide a form of subdivision control that requires a developer to provide, at their own expense, certain public improvements. Exactions generally offset the additional County responsibilities incurred as a result of subdivision and development activities; protect health, safety and welfare of the public; and implement the County's General Plan and any adopted area plans.

Relieving public agencies from granting an agricultural or open space easement to the County does not excuse a public agency applicant from the subdivision permitting process nor does it preclude the ability of the County to require other agricultural and open space protections and assurances through associated development permits, environmental review, and/or as may be required by a public agency's adopted plans, regulations, and policies.

B. PLANNING COMMISSION REVIEW AND RECOMMENDATION

The Planning Commission reviewed the proposed ordinance at its May 27, 2020 public hearing. After considering staff's presentation, public comment submitted as part of the report packet,

and public testimony at the public hearing, the Planning Commission unanimously voted to recommend approval of the amendments and recommended that the Board of Supervisors direct staff to submit the LCP amendments to the California Coastal Commission for review and certification.

C. PUBLIC OUTREACH AND COMMENT

On December 5, 2019, Planning staff had a conference call with California Coastal Commission (CCC) to elicit early input on the requested text amendments. No concerns were identified by the CCC during the call nor did CCC staff provide comments following the call.

In January and February 2020, Planning staff presented the text amendments to the San Mateo County Farm Bureau, Agricultural Advisory Committee, Pescadero Municipal Advisory Council, and Midcoast Community Council at their respective public meetings with the purpose of soliciting input during and subsequent to the meetings via written comment.

Both the San Mateo County Farm Bureau and Agricultural Advisory Committee were concerned with impacts on agricultural lands, as noted in the letters discussed below. The Pescadero Municipal Advisory Council and Midcoast Community Council are supportive of the amendments. Letters supporting the project were also received by the City of Half Moon Bay, Sustainable Pescadero Collaborative (Collaborative), Green Foothills, and Kitchen Table Advisors.

As of report publication, the following comments letters have been received by staff, with some letters summarized below, please refer to the attachments for all letters.

- California Farm Bureau Federation February 12, 2020
 - MROSD (response to California Farm Bureau Federation) March 24, 2020
 - San Mateo County Farm Bureau (response to MROSD) April 2, 2020
- Ron Sturgeon March 30, 2020
- Sustainable Pescadero Collaborative March 14, 2020
- City of Half Moon Bay March 24, 2020
- Green Foothills March 26, 2020
- Pescadero Municipal Advisory Council April 20, 2020
- Kitchen Table Advisors April 28, 2020
- California FarmLink March 12, 2020
- Midcoast Community Council February 26, 2020
- Agricultural Advisory Committee May 18, 2020
 - MROSD (response to Agricultural Advisory Committee), May 20, 2020
- San Mateo County Farm Bureau May 11, 2020
- Judith Humburg May 25, 2020
- Green Foothills May 25, 2020
- Kerry Burke May 20, 2020

- Ron Sturgeon May 26, 2020
- San Mateo County Farm Bureau May 26, 2020

1. California Farm Bureau Federation Letter Dated February 12, 2020

a. *The Coastal Act does not require these proposed text amendments... The County's zoning code need not be completely congruent with permitting requirements under the Coastal Act... We see nothing about the current zoning requirements in the PAD Zone that is inconsistent with the Coastal Act's position on agriculture and in fact is not actually supported by the Coastal Act.*

Staff Response: One of the goals of the Coastal Act is to maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone. Midpeninsula Regional Open Space District was created as a public agency (special district) in 1972 with the purpose and mission *to acquire and preserve a regional greenbelt of open space land in perpetuity, protect and restore the natural environment, and provide opportunities for ecologically sensitive public enjoyment and education.* Working collaboratively with POST, a non-profit created in 1977 whose mission is to protect open space on the Peninsula, both entities actively maintain and expand trail systems while securing farmland thus supporting the public access and public recreation goal. In their review of upcoming projects, MROSD and POST have determined that the County's Zoning and Subdivision Regulations language creates an impediment to furthering the goals of the CA, LCP, and their missions to maximize public access and recreation in the coastal zone.

The proposed text amendments do not excuse future projects involving public agencies from complying with County Zoning Regulations. Specifically, future development of any parcels owned by public agencies would continue to be regulated by the applicable Zoning Regulations with exception of the two requirements listed above. Projects would still be subject to the preparation of a Master Land Division Plan which will specify how the land will be used and protected for agricultural and non-agricultural uses to the extent relevant, and permits would be processed, subject to review and approval by the relevant County advisory committees and decision-making bodies at the time of any application. Any required permits must address impacts to the natural environment, agriculture and adjoining properties as outlined in County General Plan policies and Zoning Regulations.

Applicant Response Dated March 24, 2020: Midpeninsula Regional Open Space District has provided a response to the Farm Bureau letter and has stated that the existing Memorandum of Understanding (MOU) with the San Mateo County Farm Bureau, which would continue to be effective, includes policies and commitments for land acquisition, resource management, public trails and agriculture, including consultations on land purchase, grazing and farm leases and public trail planning on agricultural lands. It further highlights that the County is free to regulate land divisions in different ways so long as such regulations are not inconsistent with the Coastal Act.

b. *The proposed zoning text amendments may have unintended consequences.*

Staff Response: The narrow application of the text amendments - applicable only to public agencies proposing land divisions for public recreation purposes - retains the County's authority to permit future development through a public process, and the County's responsibility to implement its adopted land use plans protecting agriculture and natural resources ensures potential unintended consequences are minimal or avoided.

Applicant Response Dated March 24, 2020: Midpeninsula Regional Open Space District reiterated the narrow focus of the amendments and the County's continued ability to require permits.

c. *The timeline for the public review of the proposed zoning amendments is insufficient.*

Staff Response: Four consultation meetings with interested groups were conducted in January and February 2020 as noted in the Chronology. Following each public meeting, each interested group was given at least one month following their meeting date to prepare comments on the proposed project. Though this time was mutually agreeable to each group, Planning staff also indicated that comments received after the agreed upon dates would still be considered. Project applicants have also publicly met separately over 10 times with the interested groups at their public meetings, including the Farm Bureau beginning in October 2019, see Attachment K.

Applicant Response Dated March 24, 2020: Midpeninsula Regional Open Space District had initiated an on-site consultation with Farm Bureau executive members to discuss land division projects in October 2019 with multiple subsequent meetings with the Farm Bureau and Coastside community.

d. *Environmental review should be undertaken.*

Staff Response: The California Environmental Quality Act (CEQA) provides an exemption for local governments from the requirement to prepare an environmental impact report in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Environmental review of the proposed LCP amendment is the responsibility of the CCC under CEQA's functional equivalent doctrine and will occur at the time the CCC reviews the proposed amendments.

2. San Mateo County Farm Bureau Letter Dated April 2, 2020

The San Mateo County Farm Bureau (SMCFB) provided a response letter to the MROSD letter dated March 24, 2020, with the following comments:

a. *The outreach that MROSD and POST have conducted with respect to the zoning request is overstated and that a series of County-sponsored public workshops is requested.*

Staff Response: Due to the limited scope of the amendment - again, applicable only to public agencies proposing land divisions for public recreation purposes - and consistency with the California Coastal Act and LCP language, staff ensured coastal committees/councils were consulted at their public meetings where interested members of the public could attend and provide input on the amendments. Staff provided mutually agreeable time frames for each committee/council to provide written comments and continues to offer the opportunity to submit comments.

b. *We would also request that you [MROSD] provide us with more detailed information about the CEQA process your letter mentions.*

Staff Response: As previously discussed in this report, CEQA analysis will occur as part of the CCC's review of the LCP amendment.

3. Letter from Ron Sturgeon to John Beiers, County Counsel Dated March 30, 2020

a. *The PAD regulation regarding maximum parcel size "Non-agricultural parcels shall be as small as possible, and when used for residential purposes shall not exceed 5 acres," does it also pertain to all other non-agricultural parcels and does it do any more than exempt the proponents from the residential parcel size restriction?*

Staff Response: Amendment to the maximum parcel size provision allows a public agency to have greater parcel size flexibility to accommodate non-residential public recreational uses and public recreational uses with related housing (in-park ranger housing, hikers' huts).

b. *Pursuant to voter initiative "Measure A" approved on November 4, 1986 (and which is now codified in LCP Policy *1.32), all LCP subsections of such policies identified with an asterisk (*) may only be amended or repealed with the approval of the San Mateo County electorate. Would you agree that Policy *5.13(b) must be amended by the approval of the electorate?*

Staff Response: Amendment to the Zoning and Subdivision Regulations do not alter any LCP Land Use Plan policy language thus a vote of the electorate is not required. The proposed amendments utilize the same language found in the California Coastal Act for consistency, thus the text amendments are not less restrictive than the California Coastal Act or LCP and are consistent with public access and public recreation goals of the California Coastal Act.

c. *The required County easement is in essential respects self-enforcing, and is necessary because MROSD's Mission within its Coastal Annexation Area is not unifocally the protection of agriculture; and consequently the preservation of agricultural conservation values can be lost in the shuffle of its pursuit of other goals.*

Staff Response: It is correct to say MROSD's Mission is not unifocal because it extends beyond the protection of agriculture. That said, MROSD's Service Plan recognizes the importance of agriculture to the economy, encourages the sale/lease

of MROSD properties for outdoor agriculture, establishes guidelines for managing the impacts of MROSD programs on adjacent agricultural operations, and provides for agricultural easements and leases. Further, and applicable to any public agency proposing development under these text amendments, the County retains its ability to review proposals for conformance with County General Plan, Zoning and Subdivision Regulations through a public process and can review proposed easement language to ensure easements remain consistent with local regulations. As intended and noted in the MROSD Service Plan, page 7 regarding San Mateo County regulations “*No changes in land use designation or land use controls are associated with the [coastal] annexation process or would be required as a result of any District activities,*” thus MROSD implementing programs and development will remain consistent with County regulations. It should be noted that the County does not have the ability to require affirmative agricultural easements by regulation (where active agricultural operations must occur under agreement) but the applicants, namely POST, utilize affirmative agricultural easements in order to ensure long-term active farm and grazing operations.

4. Sustainable Pescadero Collaborative Letter Dated March 14, 2020

This letter speaks in support of the amendments. The Collaborative believes the amendments would make it more likely that the Pescadero

Community could achieve the goal of having trails that come from the Town of Pescadero leading to the ocean and from Butano State Park to the ocean. The Collaborative also believes the project, by allowing larger areas of land available for private ownership by farmers, supports sustainable agriculture and the farmers that implement it. Lastly, the Collaborative believes the project, enabling the transfer of land to independent farmers, actually strengthens not just the farmers but the community as a whole.

5. City of Half Moon Bay Letter Dated March 24, 2020

The City of Half Moon Bay supports the amendments and the public review process maintained through the amendment. The City Manager notes that the City has entered into a letter of intent with MROSD and POST to partner on future public trail access at the City’s Johnston House Park property while continuing to support the farming and ranching at this property and surrounding land. Further, the City supports providing access to other nearby POST, MROSD, and State Parks owned lands.

6. Green Foothills Letter Dated March 26, 2020

Green Foothills noted that the California Coastal Act and LCP definition of development take precedence over any lack of clarity in the Zoning and Subdivision Regulations and that the purpose of the proposed amendments are to clarify any ambiguities or inconsistencies and constitute a *de minimus* change to the Regulations.

The letter also noted some inconsistencies/ errors in the Pescadero Municipal Advisory Council staff report dated February 11, 2020 particularly with regard to being inclusive of lot line adjustments as “land divisions” and excluding bayside districts/including the City of Half Moon Bay on the list of public agency owned lands within the coastal zone. Staff notes these inconsistencies/errors identified by Green Foothills and identifies the public agencies in the coastal zone:

- City of Pacifica
- San Mateo County Parks
 - San Francisco Public Utilities Commission
 - U.S. Bureau of Land Management
 - U.S. National Park Service
 - Midpeninsula Regional Open Space District
 - California Parks and Recreation
 - California State Coastal Conservancy
 - California Department of Fish and Wildlife
 - Coastside County Water District
 - North Coast Water District
 - City of Half Moon Bay
 - Montara Water and Sanitary District
 - Granada Community Services District

7. Pescadero Municipal Advisory Council Email Dated April 20, 2020

The Pescadero Municipal Advisory Council provided an email stating that PMAC strives to support and partner with all of its community-based stakeholders and is generally supportive of the proposed amendments but did request additional time to review the amendments. As the amendments are processed, Planning staff remains open to comments should the community groups desire to discuss the amendments at their public meetings. Additional opportunities to comment are available before the subsequent Board of Supervisors and California Coastal Commission hearings. Additionally, associated development projects will require public hearings during which the community groups will have the opportunity to comment.

8. Kitchen Table Advisors Letter Dated April 28, 2020

Kitchen Table Advisors, non-profit organization providing financial advice and other resources to small-scale farmers, is supportive of the amendments. As stated in their letter, the organization is dedicated to ensuring small independent farmers have equitable access to farmland on the San Mateo Coast and the opportunity to purchase farmland. The proposed amendments support their goals through public-private partnerships that preserve coastal land while retaining the farmland portions in private ownership. The amendments would help facilitate these goals.

9. California FarmLink Letter Dated March 12, 2020

California FarmLink, non-profit organization connecting limited resource and immigrant/underserved farmers and ranchers with financing and other information, is supportive of the amendments. As stated in their letter their organization is dedicated to ensuring small and beginning farmers have access to farmland in San Mateo County and the opportunity to purchase these lands to ensure farmland and portions thereof are

retained in private ownership. California FarmLink agrees that the text amendments will benefit rangeland and keep farmland and rangeland in production and in the hands of farmers and ranchers.

10. Midcoast Community Council Letter Dated February 26, 2020

The Midcoast Community Council supports the text amendments for consistency with the California Coastal Act and Local Coastal Program. In their letter, the MCC also requests that a separate zoning regulation issue within the Midcoast, namely modifying how building height is measured on Midcoast PAD lands, should be included in the MROSD/POST requested amendment. Staff understands the request and issues regarding PAD

height measurement in the Midcoast, however, this is not part of the applications' project scope. Additional review and public input would be required to address this request resulting in a delay in the current application even if the applicants were agreeable to modifying their project scope. That said, an application for the requested amendments may be made separately to the Department for consideration.

11. Agricultural Advisory Committee Letter Dated May 18, 2020

At its special meeting held on May 18, 2020, the Agricultural Advisory Committee finalized their comment letter identifying their response to Planning staff's report to the AAC at their January 13, 2020 meeting in addition to the following requests: (1) that the County undertake a thorough environmental review that examines the implications of the text amendments on future agricultural and ranching activities, (2) that the County consider adopting alternative text that do not exempt any public

agency from the requested text amendment language and that the easement language is further strengthened, and (3) that the County host a public workshop to examine the key issues of the agricultural/conservation easement.

Staff Response: As identified in the Environmental Evaluation section of this report, staff has conducted its environmental review and will rely on functional equivalent doctrine found in CEQA, Public Resources Code Section 21080.9. With regards to the alternative text, the language requires the agricultural/conservation easements with additional parameters minimizing all recreational uses to the extent practicable. This is counter to the applicant's request for relief from the County's easement requirement. Implementation of this alternative language would be applicable to all public agencies, not just the project applicants. Finally, regarding the request for a public workshop, staff has provided multiple opportunities for public

comment both during the four public hearings before the various communities/councils in addition to accepting public comment throughout the LCP amendment process, as well as the opportunity before the Planning Commission, Board of Supervisors, and future California Coastal Commission meetings. Further, the applicants have attended the various committees/councils on 14 occasions, please refer to Attachment T for MROSD response letter.

D. ENVIRONMENTAL REVIEW

Section 21080.9 of the California Public Resources Code - within the California Environmental Quality Act (CEQA) - exempts local government from the requirement of preparing an

environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. It follows that environmental review of the proposed LCP amendment is the responsibility of the California Coastal Commission (CCC). The project would be subject to the provisions of CEQA pursuant to Section 21080.5, in which a functionally equivalent CEQA analysis will be performed by the CCC 'in lieu' of any otherwise required CEQA analysis, as a state agency's (in this case the CCC) certified regulatory program (in this case the Local Coastal Program) is statutorily exempt from California Environmental Quality Act. The County shall provide the CCC all documentation necessary to perform such a functionally equivalent CEQA analysis.

E. REVIEWING DEPARTMENT/AGENCIES

County Counsel
California Coastal Commission
San Mateo County Farm Bureau
Agricultural Advisory Committee
Midcoast Community Council
Pescadero Municipal Advisory Council

This report, Ordinance, and Resolution have been reviewed and approved by County Counsel as to form.

FISCAL IMPACT:

There is no foreseeable fiscal impact to the County from adoption of the proposed ordinance.

ATTACHMENTS:

- A. Recommended Findings and Action
- B. Map of Project Extent
- C. Map of Project Extent and Project Applicant/Public Agency Ownership
- D. MROSD Coastal Service Plan (due to length of document, online link provided):
<https://www.openspace.org/sites/default/files/Coastal_Service_Plan.pdf>
- E. MROSD Memorandum of Understanding, MROSD and San Mateo County Farm Bureau, February 2004
- F. MROSD Vision Plan 2014 (due to length of document, online link provided):
<https://openspace.org/sites/default/files/2014_Vision_Plan.pdf>
- G. MROSD Resource Management Policies (due to length of document, online link is provided):
<<https://www.openspace.org/our-work/projects/resource-management-policies>>
- H. MROSD Agricultural Use Policy Statements, February 1978
- I. Letter: California Farm Bureau Federation February 12, 2020
- J. Letter: MROSD (response to California Farm Bureau Federation) March 24, 2020
- K. Letter: San Mateo County Farm Bureau (response to MROSD) April 2, 2020
- L. Letter: Ron Sturgeon March 30, 2020
- M. Letter: Sustainable Pescadero Collaborative March 14, 2020
- N. Letter: City of Half Moon Bay March 24, 2020
- O. Letter: Green Foothills March 26, 2020
- P. Letter: Pescadero Municipal Advisory Council April 20, 2020

- Q. Letter: Kitchen Table Advisors April 28, 2020
- R. Letter: California FarmLink March 12, 2020
- S. Letter: Midcoast Community Council February 26, 2020
- T. Letter: Agricultural Advisory Committee May 18, 2020
- U. Letter: MROSD (response to Agricultural Advisory Committee) May 20, 2020
- V. Letter: San Mateo County Farm Bureau May 11, 2020
- W. Letter: Judith Humburg May 25, 2020
- X. Letter: Green Foothills May 25, 2020
- Y. Letter: Kerry Burke May 20, 2020
- Z. Letter: Ron Sturgeon May 26, 2020
- AA. Letter: San Mateo County Farm Bureau May 26, 2020
- AB. PMAC Staff Report, February 12, 2020 (without attachments)