



# County of San Mateo

## Inter-Departmental Correspondence

**Department:** PLANNING AND BUILDING

**File #:** 22-526

Board Meeting Date: 7/12/2022

**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Steve Monowitz, Community Development Director

**Subject:** Consideration of an appeal of a Planning Commission decision on a Minor Subdivision, a Resource Management Permit, and a Grading Permit, pursuant to Section 7101 of the 1992 San Mateo County Subdivision Regulations, Section 6313 of San Mateo County Zoning Regulations, and Section 9283 of the San Mateo County Grading Regulations, and the Revised Recirculated Initial Study/Mitigated Negative Declaration, pursuant to the California Environmental Quality Act. The project site is located at 1551 Crystal Springs Road, Unincorporated San Mateo County.

County File Number: PLN 2014-00410

### **RECOMMENDATION:**

Recommendation to:

- A) Open public hearing
- B) Close public hearing
- C) Uphold the appeal of the Planning Commission's denial of a Minor Subdivision, Grading Permit, and Resource Management Permit for a proposed 3-lot subdivision, in the unincorporated Highlands area of San Mateo County.

### **BACKGROUND:**

The project will create three new parcels as presented to the Planning Commission on July 28, 2021. The subdivision proposal was reviewed by staff, consultants, and referral agencies for environmental impacts and consistency with County policies. The project's aesthetics, biological resources, geology and soils, and hazards and hazardous materials, hydrology and water, and public services were areas of focused environmental evaluation, and were most relevant with respect to consistency with the General Plan, Resource Management Zoning Regulations, and Development Review Criteria. The project is also subject to the Grading Ordinance and Subdivision Regulations.

At the hearing, County planning staff presented the project and discussed sections of the staff report to describe the scope of the project and the following significant aspects of the project: 1) the mapped resources and geological hazards; 2) environmental impacts identified from surveys and reports conducted by consultants; 3) how mitigation measures would reduce impacts to less than significant levels; and 4) the project's adherence to applicable County policies.

The applicant spoke at the hearing and stated that the project had been designed to be sensitive to the constraints of the parcel, previous County direction, and County development policies. John Stillman of Murray Engineers, one of the applicant's geotechnical consultants, spoke about the historical landslide activity, a proposed stitch pier wall to stabilize the hillside, and how the project design avoided placing development footprints in areas with previous landslide activity.

After the staff presentation, members of the Highlands community spoke against the project. Much of the opposition to the project was focused on concerns related to landslides and fire hazards. While the subdivision of the land itself does not increase landslide or fire incidence or severity, speakers stated that the subsequent site preparation and residential development was a public safety hazard and therefore did not meet several County policies.

Following presentations and public comment, the Planning Commission discussed the project and raised concerns about the landslide activity that has occurred on the parcel and expressed concerns about residential development in a high fire hazard zone, and about the safety and welfare of the community. The Commission's unanimous consensus was that, due to the public safety concerns raised by the community, the project did not comply with County policies found in the General Plan and Resource Management Zoning District as a result of hazards on the property. The Commission, therefore, directed staff to prepare findings for denial for consideration by the Commission, which findings were adopted August 25, 2021.

The denial findings provide that, by allowing lot configurations and a pattern of private ownership of land that renders it impossible to hold future owners accountable for maintaining fuel loads, the proposed minor subdivision would be inconsistent with the protection responsibilities found in California Public Resource Code section 4291(a)(1)(A).

The applicant appealed the Planning Commission decision on September 7, 2021. The appeal application (Attachment C) refers to specific portions of the staff report which supported approval of the project—specifically, the parcels' conformity with slope instability area criteria of the RM zoning, and the inclusion of mitigation measures to ensure there were no significant impacts from the subdivision. The appeal also states that Cal-Fire review did not indicate fire hazards in high fire severity zones could not be mitigated.

On January 27, 2022, the applicant submitted a supplemental appeal packet challenging the grounds for the Planning Commission's denial. The package included legal concerns from attorney Matthew D. Francois, a statement from the geotechnical consultant, John Stillman, and analysis from David Shew, Wildfire Consultant (Attachment D).

On February 4, 2022, in response to the appeal documents, County staff met with Cal Fire representatives, who were asked to review a fire hazards analysis from Urban Forestry and Associates and the letter from David Shew, Wildfire Consultant. Cal Fire stated that their review was a standard one used for all proposed future development in the County within all state responsibility areas or very high fire hazard severity zones, as they perform a more specific review when development is proposed. Cal Fire also noted that current fire protection measures on the site

require a 100-foot vegetation buffer around the existing residence on Crystal Spring Road only - the rest of the site is woodland vegetation. Further, according to Cal Fire, new development along Parrott would not increase the incidence of wildfire but would actually create new and larger areas of vegetation clearance and reduced wildfire risk along Parrott.

## **DISCUSSION:**

To address the Planning Commission's concerns about fire hazard, staff recommends three new conditions that would supplement the conditions of approval previously presented to the Planning Commission, all three of which are acceptable to the applicant. The conditions can be applied to the subdivision and carried forward for the future development on the new lots, as the new residences will require Resource Management Permits that will be subject to further conditions of approval.

The three new proposed conditions of approval, with the rationale for each, are as follows:

- 1. *Proposed Condition:*** Building permit applications for residential development on Lots 1, 2, and 3 shall include an irrigation plan to regularly irrigate fuel (vegetated) areas downslope from the future homes (at least 100 feet below the closest part of the structure). The applicant shall demonstrate consultation with their landscape designer and geotechnical engineer on the irrigation plan, which plan shall be reviewed by Cal Fire and the County's Geotechnical Section, and reviewed for WELO compliance. Installation of the approved irrigation system shall be verified prior to the issuance of a Certificate of Occupancy for each residence.

**Rationale:** Fires are known to burn more quickly uphill, and one of the factors that impacts fire behavior and intensity is fuel moisture, which is the amount of water contained in surrounding plants. The higher the fuel moisture, the more effort flames must work to dry those fuels out, which reduces the speed and intensity by which fire spreads.

- 2. *Proposed Condition:*** The Applicant shall record a Deed Restriction establishing a Non-Combustible Materials Zone including the area measuring five (5) feet around the full footprint of any structure(s) on the parcel. This zone shall be maintained free of combustible materials for the life of the project. The deed restriction (in a form approved by the County) shall be recorded at the time each lot is sold. The zone shall be shown on building plans and shall be verified prior to the issuance of Certificate of Occupancy for each residence.

**Rationale:** A noncombustible zone has been identified as a major contributor in reducing ignitions of structures during wildfire events. By incorporating recommended distances and separation of trees, shrubs and other flammable vegetation to minimize fire spread toward a home into landscaping, the ability for a fire to spread to the structure itself is reduced.

- 3. *Proposed Condition:*** As required by the California Government Code Title 5, Division 1, Chapter 6.8, Section 51182, individual property owners for Lots 1-3 shall be responsible for maintaining a fuel break by removing all hazardous flammable materials or growth from the ground around each home for a distance of up to 100 feet from its exterior circumference, for the life of the project. Open space easements between structures on lots 1, 2 and the remainder parcel and between lots 2 and 3 shall be established to extend defensible space maintenance beyond property lines. Property owners of lots listed above shall arrange with the appropriate property owner of the remainder parcel to utilize the easement when required to obtain access to the open space easement for the purpose of vegetation clearance. This would not constitute an authorization of tree removal for trees protected by the RM zoning

regulations or “major removal” of vegetation requiring an RM Permit; projects of that scope may be proposed, but would be subject to existing permit requirements. This requirement shall be recorded (in a form approved by the County) as a deed restriction on Lots 1 through 3 at the time each lot is sold.

**Rationale:** The creation of the open space easements can extend the defensible space beyond a property line, offering a protection level greater than what is currently required by law.

The project site has been evaluated by several geotechnical consultants and peer reviewed by the County. Guided by geotechnical studies, the applicant redesigned the project in a manner that places the area with the greatest landslide activity on the remainder parcel, where no development will occur in the future, and will install stich pier walls to stabilize the hillside, which was determined to be a new a benefit to the stabilization of Parrott Drive. In the attached staff report, conditions 40-57 (Mitigation Measures 26-43) address construction near areas with mapped landslide activity. To date, no geotechnical evaluation has been presented which contradicts the provided geotechnical evaluations about hillside stability as it pertains to creation of new parcels for future development. Therefore, new conditions related to geotechnical aspects of the project are unnecessary and, for that reason, have not been proposed.

Staff believes that the three new fire safety conditions fully address the concerns surrounding creation of new lots in the state responsibility high fire severity zone. Therefore, the Planning Department asks the Board of Supervisors to review the amended proposal and consider approval of the minor subdivision, PLN2014-00410, with the newly added conditions to improve fire safety components of the proposal.

**FISCAL IMPACT:**

The minor subdivision increases the number of potential home sites, which would increase the tax base and provide additional housing within the County of San Mateo.

**ATTACHMENTS:**

- A. Recommended Conditions and Findings
- B. Planning Commission Denial dated August 25, 2021
- C. Appeal application dated September 7, 2021
- D. January 5, 2022 Appeal package from Matthew D. Francois
- E. June 2, 2022 letter from David Shew, Wildfire Defense Works
- F. Staff report and supporting documents from July 28, 2021 Planning Commission hearing