



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** PLANNING AND BUILDING

**File #:** 22-642

Board Meeting Date: 9/13/2022

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

**To:** Honorable Board of Supervisors

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

**Subject:** Consideration of an appeal of the Planning Commission's approval of a Coastal Development Permit to legalize improvements to an existing propane distribution facility at 399 Airport Road in unincorporated Moss Beach. The project is appealable to the California Coastal Commission.

### **RECOMMENDATION:**

Recommendation to:

- A) Open public hearing
- B) Close public hearing
- C) Deny the appeal and uphold the Planning Commission's decision to approve the Coastal Development Permit (PLN 2018-00057), by making the required findings and adopting the conditions of approval listed in Attachment A.

### **BACKGROUND:**

**Project Proposal:** The applicant is requesting a Coastal Development Permit (CDP) to legalize improvements that expand an existing propane distribution facility's use on a 1.47-acre parcel located on the west side of Airport Street in the unincorporated area of Moss Beach. The improvements include perimeter security fencing, graveling of the parcel, two cargo containers used to store tools and miscellaneous business-related storage, and the placement of a water tank (8-foot diameter).

At its public hearing on April 27, 2022, the Planning Commission considered the project, heard testimony from members of the public that oppose to the project due to their concerns about safety hazards caused by the existing use, and heard testimony from the applicant, including retraction for the proposed temporary and periodic storage of used propane tanks on the site. The Planning Commission approved (3-1) the CDP by adopting the required findings and modified conditions of approval (Attachment B).

On May 11, 2022, the appellant filed an appeal (Attachment C) of the Planning Commission's

approval asserting that the fact that the existing 15,000-gallon propane storage tank and associated operations were never established with a CDP is grounds for denial of the current proposal to legalize improvements to the existing propane distribution facility.

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Appellant: Green Foothills (c/o Lennie Roberts) and Sierra Club Loma Prieta Chapter (c/o Mike Ferriera)

Applicant: Charles Eadie

Owner: Buck's Butane - Propane Services Inc.

Location: 399 Airport Road, Moss Beach

APN: 047-300-050

Size: 1.47 acres

Existing Zoning: M-1/DR/CD (Light Industrial/Design Review/Coastal Development)

Local Coastal Program: General Industrial

Sphere-of-Influence: City of Half Moon Bay

Existing Land Use: Propane distribution facility serving the local area

Water Supply: None; 8-foot diameter water tank is maintained onsite

Sewage Disposal: None

Flood Zone: Zone X (Area of Minimal Flooding), FEMA Community Panel 06081C0138F; effective August 2, 2017.

Environmental Evaluation: Categorically exempt pursuant to Section 15303, Class 3, of the California Environmental Quality Act (CEQA) Guidelines for new small structures and equipment on an urban lot and Section 15311, Class 11, for placement of minor structures accessory to existing industrial uses including but not limited to signs and small parking lots.

Setting: The relatively flat project parcel is located on the west side of, and fronts, Airport Road. The site is predominantly graveled and contains a 15,000-gallon propane tank and accessory structures in the southeast portion of the property, nearest Airport Road. The property is enclosed by an 8-foot-tall chain link fence with brown privacy slats topped by several rows of barbed wire. The southeast corner of the parcel is encumbered with a Montara Water and Sanitary District (MWSD) easement; MWSD maintains a fenced area within this easement for an Airport lift station. The propane facility serves the greater Midcoast area.

Public Notification: Ten (10) day advanced notification for the hearing was mailed to property owners within 300 feet of the project parcel, and a notice for the hearing was posted in newspapers (i.e., San

Mateo Times and Half Moon Bay Review) of general public circulation on September 3, 2022.

Chronology:

<u>Date</u>	<u>Action</u>
1964	-Propane storage and distribution use, consisting of two 7,500-gallon liquid propane tanks to serve the adjacent manufactured home park and residents and businesses in the area established. Property rezoned from H-1 to M-1 to accommodate the use (County File No. X7C2A).
1983	-Adjacent manufactured home park obtains natural gas supply; propane storage and distribution use becomes a stand-alone use.
1985	-Lawsuit settlement between original manufactured home park property owner and lessee Buck's Butane resulting in propane business property being subdivided and sold to Buck's Butane.  Legalization of the subject parcel (County File No. SMN 83-1), and recognition of two liquid petroleum tanks, including one 3,000-gallon and one 15,000-gallon tank. (3,000-gallon tank since removed).
Post 1987	-Addition of perimeter security fencing, graveling of the parcel, temporary periodic onsite storage of used propane tanks and truck parking, addition of two cargo containers and a water tank onto the project parcel without benefit of a Coastal Development Permit (CDP).
2015	-Public concerns received regarding permit status and operation of bulk propane storage and distribution facility; County issued letter to the operator identifying requirement for a Coastal Development Permit for expanded use.
2016 - 2017	-Amerigas pursued feasibility of potential relocation to the neighboring Big Wave project's South Parcel via coordination with Big Wave applicants, Planning Department staff and Coastal Commission staff; relocation was determined to be infeasible.
March - Oct. 2017	-Amerigas removed approximately 60 smaller individual tanks that were being stored on-site.  Amerigas pursued feasibility of potential relocation to the County Transfer Station in Pescadero; relocation was determined to be infeasible.
February 16, 2018	-Coastal Development Permit (CDP) application submitted, PLN 2018-00057, to legalize perimeter security fencing, two storage cargo containers, water tank, and graveled lot.
June 21, 2019	-Revised project scope to utilize fenced yard as a depot for temporary storage of individual tanks for transport to and from customers within the service area.

- January 18, 2022 -Deemed complete.
- April 27, 2022 -Planning Commission approved the CDP, excluding periodic temporary storage of individual tanks onsite, which the applicant voluntarily removed from the project scope at the hearing, and subject to modified conditions of approval.
- May 11, 2022 -Appeal of the Planning Commission's decision filed.
- September 13, 2022 -Board of Supervisors hearing.

**DISCUSSION:**

**A. BASIS FOR APPEAL TO THE BOARD OF SUPERVISORS**

The appellant's appeal is summarized below followed by staff's response.

1. The existing 15,000-gallon propane storage tank requires a Coastal Development Permit and without one, the subject project to legalize improvements should be denied.

The propane storage and distribution use was established around 1964 consisting of two 7,500-gallon liquid propane tanks to serve the manufactured home park and residents and businesses in the area. The two (2) tanks were recognized as occupying a minimally disturbed 50-foot by 60-foot area of land located 50 feet from Airport Road. At the time the propane storage and distribution use was established, the property was re-zoned from H-1 (Limited Highway Frontage) Zoning District to the current M-1 (Light Industrial) Zoning District to accommodate the use (County File No. X7C2A). In 1983, in association with the legalization of the subject parcel (County File No. SMN 83-1), County records described the subject parcel as containing two (2) existing liquid petroleum tanks, including one (1) 3,000-gallon tank and one (1) 15,000-gallon tank, serving the adjacent manufactured home park. The current site contains one (1) 15,000-gallon tank. Aerial photography as far back as 1972 appear to show a larger and smaller propane tank on the site; the larger tank being in the same location as the current 15,000-gallon propane tank on the site. Based on the substantial evidence in light of the whole record, staff has concluded that use of the site for bulk propane storage was legally established in 1964 and the 15,000-gallon propane tank was legally established prior to 1976, when the California Coastal Commission commenced issuing Coastal Development Permits (CDPs), a responsibility subsequently assumed by the County of San Mateo in April 1981.

**B. CONFORMANCE WITH THE GENERAL PLAN**

The project as proposed and conditioned conforms with the following applicable General Plan Policies:

1. Vegetative, Water, Fish and Wildlife Resources

Policy 1.39 (*Control Incompatible Vegetation, Fish and Wildlife*) encourages and supports the control of incompatible vegetation, fish and wildlife resources which are harmful to the surrounding environment or pose a threat to public health, safety and

welfare.

The applicant is proposing to maintain gravel on a majority of the parcel, as it currently exists; however, due to the nature of the onsite use, ongoing maintenance of the property for weed management shall be required to minimize fire hazard. Condition of approval No. 11 is included to require monthly weed management maintenance visits to the otherwise unmanned facility. In addition, condition of approval No. 12 requires the applicant to provide and update contact information for the current site operator to the Planning and Building Department's Code Compliance Section and the Coastside Fire Protection District.

## 2. Visual Resources

Policy 4.15 (*Appearance of New Development*) and Policy 4.36 (*Urban Area Design Concept*) seek to regulate development to promote and enhance good design, site relationships and other aesthetic considerations; maintain, and where possible, improve upon the appearance and visual character of development in urban areas, and ensure that new development in urban areas is designed and constructed to contribute to the orderly and harmonious development of the locality.

The property is located on the west side of the Half Moon Bay Airport, in the Cabrillo Highway County Scenic Corridor. The site includes a perimeter chain link fence with slats that serves two purposes - screening and security. The fence currently includes a few strands of barbed wire above the chain linking, supported by perpendicular metal "V" brackets where half of the "V" bracket projects inward of the fence and the other half projects outward of the fence, around the entire parcel. A pedestrian sidewalk extends the length of the project parcel's street frontage and two sides of the parcel abut residential lots within the adjacent manufactured home park. The outward projecting half of the "V" bracket and supported barbed wire extends toward the public pedestrian sidewalk and private residential lots, resulting in an undesirable look and feel for the public and private properties.

Conditions of approval No. 4-6 and 8-9, as approved by the Planning Commission, will require the applicant to modify the fencing to remove the "V" brackets located atop the fence supporting barbed wire, reduce the height of the fence from the existing 8 feet to 6 feet with the option for several strands of barbed wire located vertically above, and change the fence slat color to be dark brown or green to better blend in with the surrounding natural area. Additionally, the perimeter fencing along the north and west sides of the property must be set back from the existing Pillar Ridge fence to allow a minimum 4-foot space between fences to enable maintenance, and the fencing along Airport Street must be relocated out of the right-of-way.

## 3. Natural Hazards

Policy 15.41 (*Incorporate Fire Hazard Concerns During Review of Proposals for New Development*) seeks to consider, among other things, water supply and hydrant location into development review.

The property has no water service, but an 8-foot diameter water tank and fire extinguisher are maintained on the property. While the project parcel is not in a high fire

hazard area, given the nature of the use, the Coastside Fire Protection District has reviewed the project relative to fire hazard concern and has provided conditional approval; the conditions are included in Attachment A and include (but are not limited to) signage, vegetation maintenance, addressing, access, fire extinguisher requirements, and compliance with California Fire Code and National Fire Protection Association (NFPA) standards. A condition of approval has been included in Attachment A to ensure compliance is completed and verified in a timely manner.

#### 4. Man-Made Hazards

##### a. *Airport Safety Policies*

Policy 16.41 (*Regulate Land Uses to Assure Airport Safety*) and Policy 16.43 (*Regulate Location and Height of Development Surrounding Airports*) regulate land uses, location and height of development surrounding airports to assure airport safety.

The project parcel is located on the west side of the Half Moon Bay Airport, across Airport Road. The Half Moon Bay Airport Land Use Compatibility Plan (ALUCP) identifies the project parcel within Runway Safety Zone 2 (Inner Approach/Departure Zone) and Zone 5 (Sideline Safety Zone). While these safety zones prohibit hazardous uses, including above ground fuel storage tanks with capacities greater than 10,000 gallons of any substance containing at least five percent petroleum (ALUCP, Table 4B and Policy 4.2.2.4), the ALUCP, adopted in 2014 by the City/County Association of Governments of San Mateo County acting as the Airport Land Use Commission, recognizes non-conforming uses and is not retroactive to existing land uses (ALUCP Policy 1.4.3, Limitations of the ALUCP). Furthermore, the scope of improvements subject to the current CDP application does not pose any policy conflicts with use or height criteria.

##### b. *Hazardous Materials Policies*

Policy 16.53 (*Regulate Location of Hazardous Material Uses*) and Policy 16.54 (*Encourage Public Disclosure of Hazardous Materials*) seek to regulate the location of uses involving the manufacturing, storage, transportation, use, treatment and disposal of hazardous materials to ensure community compatibility and provide adequate siting, design, and operating standards; and encourage businesses utilizing and storing hazardous materials to publicly disclose the types, quantities and health risks of hazardous materials onsite.

The bulk propane use is a legally established use under the applicable M-1 zoning district. The proposed legalization of improvements to the parcel as a supporting yard for the existing propane distribution site has been reviewed and conditionally approved by the Coastside Fire Protection District and County Environmental Health Services to ensure compliance with all regulating standards for the facility. Conditions of approval have been included to require verification of compliance with California Fire Code and National Fire Protection Association (NFPA) 58 standards for liquified petroleum gas storage within a timely manner from permit approval, and a course of action if at any time the site is found to be in non-compliance.

Public concern has been raised on an annual basis (since at least 2018) regarding lack of weed management on the property, particularly within the fenced area where the large propane tank and smaller individual tanks have periodically been stored in the past before being transported to operator facilities outside of the County. In response, the Coastside Fire Protection District issued weed abatement notifications to the facility operator to ensure the issue is addressed in a timely manner. Condition of approval No. 11 is included to require the operator to proactively perform routine weed maintenance on the premise. Additionally, at the Planning Commission meeting on April 27, 2022, the applicant retracted the proposal to continue periodic storage of used individual propane tanks on the premises.

C. CONFORMANCE WITH THE LOCAL COASTAL PROGRAM

The project as proposed and conditioned conforms with the following applicable Local Coastal Program (LCP) Policies:

1. Locating and Planning New Development

Policy 1.1 (*Coastal Development Permits*) requires a Coastal Development Permit (CDP) for all development in the Coastal Zone as defined by Policy 1.2 (*Definition of Development*) to include the placement of any solid material or structure on land.

The project includes legalizing improvements to the site including perimeter fencing, gravel on a majority of the parcel, and two cargo storage containers and a water tank. These improvements constitute development under the LCP and require a CDP, which is being pursued under the subject application.

2. Visual Resources

Policy 8.5 (*Location of Development*) and Policy 8.32 (*Regulation of Scenic Corridors in Urban Areas*) require new development be located where the development is least visible from County Scenic Roads, is least likely to significantly impact views from public viewpoints and applies the design criteria of the Community Design Manual.

The project site is located within the Cabrillo Highway County Scenic Corridor, with Cabrillo Highway being approximately 2,000 feet east of the project site and on the far side (from the project site) of the Half Moon Bay Airport. The project site is not distinguishable from any points along the designated Cabrillo Highway scenic road due to its distance and intervening development and vegetation, and not highly visible from other public viewpoints. All activity related to the facility is contained within the fenced area to minimize visual impacts.

3. Shoreline Access Component

Policy 10.1 (*Permit Conditions for Shoreline Access*) requires some shoreline access provision as a condition of granting development permits for any public or private development between the sea and the nearest road.

While the project site is located between the Pacific Ocean and Airport Road, the

first through road from the sea, the project is located 0.35 miles east of the nearest shoreline below Pillar Point Bluffs. Nearby accessible trails from Airport Road provide access to vertical public shoreline access points along the Bluff. Furthermore, vertical public access to the Princeton shoreline is available from the street-ends within the Princeton community. The project does not impact or impede existing shoreline access.

D. CONFORMANCE WITH THE ZONING REGULATIONS

The project parcel is zoned M-1 (Light Industrial) which permits “distributing plants, including bulk petroleum plants” provided that the use is carried on in a manner that is, in the opinion of the Planning Commission not objectionable from the standpoint of odor, dust, smoke, gas, noise or vibration.

The development standards in the M-1 district include a maximum height limit of 75 feet. There are no setback or specific fence height standards applicable to the property. All structures on the property are located within the enclosed fence area and setback to be within property boundaries. Additionally, no structures on the parcel exceed the maximum height limit.

Odor from leaks and gas has been a concern raised by members of the public given the facility’s proximity to the adjacent residential manufactured home park. There have been several past occurrences where complaints were documented for odor and gas leaks causing impact to nearby residents, including in September and October 2017. The Coastside Fire Protection District responded to both events and concluded the September 2017 event involved the process of decommissioning the smaller propane tanks stored on the property with no observation of leaking or odors or present hazards upon their arrival. The October 2017 event was an odor investigation in which the Fire Protection District noted a gas leak from a gauge on the large propane tank. The Fire Protection District upgraded the response and requested a representative from Amerigas to report to the scene to address the issue; the Fire District coordinated with the adjacent manufactured home park manager and notified the manager at the end of the event to inform them that the issue was cleared.

Additionally, flaring of tank(s) has occurred on-site in the past, including but not limited to in December 2017 pursuant to a permit from the Fire Protection District. Conditions of approval are included to require warning and emergency instruction signage, and proper fire safety equipment (i.e., extinguisher) be maintained on the site. The applicant has indicated that no internal cleaning or flaring is proposed on-site as has been performed in the past to avoid repeating past concerning events.

E. MIDCOAST COMMUNITY COUNCIL

The Midcoast Community Council’s last comments on July 10, 2019, conveyed opposition to allowing the “grandfathering” use of the bulk storage tank to continue at the project location and opposition to allowing an expansion of the use as a depot for smaller tanks due to a history of odor and leak concerns and unsafe conditions to the adjacent residential Pillar Ridge Manufactured Home community.

Staff’s response to these concerns is discussed throughout Sections A - D above.

F. ENVIRONMENTAL REVIEW

Categorically exempt pursuant to Section 15303, Class 3, of the California Environmental Quality Act (CEQA) Guidelines for new small structures and equipment on an urban lot and Section 15311, Class 11, for placement of minor structures accessory to existing industrial uses including but not limited to signs and small parking lots.

The memorandum and the recommended findings and conditions of approval have been reviewed and approved by the County Attorney's Office as to form.

**FISCAL IMPACT:**

None.

**ATTACHMENTS:**

- A. Recommended Findings and Conditions of Approval
- B. Planning Commission Approval Letter, dated May 6, 2022
- C. Appeal filed May 11, 2022
- D. Vicinity Map
- E. Survey/Site Plan
- F. Historical Permit Records
- G. Project Description/Supporting Statement
- H. Midcoast Community Council Comment Letter