

**COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT**

**DATE:** February 11, 2020

**TO:** Pescadero Municipal Advisory Committee (PMAC)

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**SUBJECT:** Midpeninsula Open Space District (MROSD) and Peninsula Open Space Trust (POST) proposed Local Coastal Program Amendment (Zoning and Subdivision Ordinance Text Amendments)

County File Number: PLN 2019-00258 (MROSD/POST)

**PROPOSAL**

San Mateo County has received an application from the Project Sponsors (MROSD and POST) requesting a series of Local Coastal Program (LCP) text amendments to the San Mateo County Zoning and Subdivision Ordinances for consistency with the California Coastal Act Section 30106 definition of “*Development*” and County LCP Locating and Planning New Development Component Policy 1.2 “*Definition of Development*” in order to address future public recreational facility projects on lands owned, or to be acquired by, the Project Sponsors, as well as other public agencies.

The inconsistency arises from MROSD proposed/future land divisions (e.g., lot line adjustments) for public recreation purposes, which invoke the Subdivision Ordinance and the references within that Ordinance to the respective Zoning Districts, requiring the public agency to grant to the County an agricultural easement, in perpetuity, and to restrict the maximum lot size of non-agricultural parcels to 5 acres. Additionally, the easement and maximum lot size are required when processing the associated zoning permits (exempting Coastal Development) for such land divisions. Although the Coastal Act and Local Coastal Program exempt these activities from “development”, thus not requiring a Coastal Development Permit, MROSD and other public agencies, are still subject to these requirements by virtue of the associated zoning and subdivision ordinance references and requirements.

The text amendments are “focused” and intended to address future public recreational facility projects on lands owned by the MROSD, as well as other public agencies, in the coastal zone districts of the Planned Agricultural District (PAD) and the Resource

Management Coastal Zone (RM-CZ) to alleviate requirements resulting from land divisions, namely:

1. Requirement for the recordation of agricultural and conservation/open space easements, and
2. Requirement for maximum lot size of non-agricultural and non-residential lots associated with land divisions.

It is noted that the text amendments proposed would not exempt MROSD or other public agencies with future projects in the affected zoning districts from preparing associated Master Land Division Plans as is currently required by County Ordinance nor from compliance with General Plan or other applicable Zoning and Subdivision Regulations requirements.

If the proposed amendment is approved and certified by the Coastal Commission, future development of any parcels owned by public agencies would continue to be regulated by the applicable Zoning Regulations with exception to the two requirements listed above. To the extent relevant, Planned Agricultural District (PAD) and Coastal Development (CDP) 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 are required to address impacts to the natural environment, agriculture and adjoining properties as outlined in County General Plan policies and Zoning Regulations.

### **TEXT AMENDMENTS**

The project, as currently proposed, includes text amendments to the following four (4) Zoning Regulations and Subdivision Ordinance sections. See Attachment A for proposed draft language of associated proposed text amendments.

1. Chapter 21A Planned Agricultural District (PAD).
2. 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.

As noted above, the project would include all parcels within the PAD and RM-CZ zoning districts located within the Coastal Zone boundary. This equates to approximately 80,981 acres of land. Please see Attachment B, Map of Project Extent and Attachment C, Map San Mateo County Coastal Zone – Project Sponsors and Other Publicly Owned Lands. Other public agencies within the project area include, City of Pacifica, County Parks, SFPUC, U.S. Bureau of Land Management, U.S. National Park Service, Highlands Recreation District, Ladera Recreation District, CA State Parks and Recreation, CA State Coastal Conservancy, CA Department of Fish and Wildlife.

## **APPLICATION PROCESS AND OTHER CONSULTATIONS**

The proposed project requires Ordinance amendments to both the Zoning and Subdivision Ordinances and will subsequently require formal consideration and action by both the San Mateo County Planning Commission and Board of Supervisors, anticipated for public hearing in late spring 2020. Following such County public meetings, the application will be presented to the California Coastal Commission for Certification of LCP amendments, including any environmental evaluation.

Prior to these formal public hearings and following consultation by the PMAC tonight, staff intends to have additional consultation with the Mid-Coast Community Council (MCC) in February 2020 for discussion and feedback. Consultation with the Farm Bureau was completed on January 6, 2020 and with the Agricultural Advisory Committee (AAC) on January 13, 2020.

## **DECISION MAKER**

Board of Supervisors

## **QUESTIONS FOR THE PMAC**

1. Any feedback on the potential effects on impacted agricultural uses as a result of the proposed text amendments? Any recommended conditions of approval or other questions to address?
2. What position do you recommend that the Planning Department staff take with respect to the project application?

## **BACKGROUND**

Report Prepared By: Melissa Ross, San Mateo County Senior Planner, and Stephanie Davis, Good City Company/Planning Consultant.

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

Owners: Public agency landowners (applicable to public recreation projects).

Location: Varied throughout the Coastal Zone and Pescadero. See Attachments B, C and F.

APN(s): Various.

Parcel Size: Various.

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

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

Local Coastal Plan Designation: Various. See Attachments B and C.

Williamson Act: Various. See Attachments B and C.

Environmental Evaluation: The project would be subject to the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 21080.5. in which a functionally equivalent CEQA analysis will be performed ‘in lieu’ of any otherwise required CEQA analysis, as a state agency’s (in this case the California Coastal Commission) certified regulatory program (in this case the Local Coastal Program) is statutorily exempt from CEQA.

Setting: There is approximately 80,981 acres of land within the LCP boundaries that have a land use designation of PAD or RM-CZ. See Attachment B, Map of Project Extent and Attachment C, Map San Mateo County Coastal Zone – Project Sponsors and Other Publicly Owned Lands. Within Pescadero, there is approximately 38,530 acres of Coastal Zone land, of which approximately 14,000 acres is owned by a public agency; specifically 0 acres owned by MROSD, 6,826.39 acres owned by POST, and 8,046.32 acres owned by other public agencies – See Attachment F Map of Pescadero boundary.

*Will the project be visible from a public road?*

No specific development project proposed at this time. Depending on specific location(s) of any future public recreation project(s), there could be visibility from a public road that will be evaluated at the time of formal project submittal to the Planning Department.

*Will any habitat or vegetation need to be removed for the project?*

Again, no development is proposed at this time. Policy conformance review would occur at the time a formal development project is submitted to the Planning Department.

*Is there prime soil on the project site?*

It is anticipated that prime agricultural lands are within the project area, however, no development is proposed at this time. Prime agricultural lands would be evaluated if and when a formal development proposal is submitted to the Planning Department.

**DISCUSSION**

A. **KEY ISSUES**

1. Compliance with Planned Agricultural District (PAD) and Resource Management – Coastal Zone (RM-CZ) Regulations

The scope of the proposed text amendments would continue to meet the purposes of PAD and RM-CZ Districts to preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of agricultural lands suitable for agriculture in agricultural production, and minimize conflicts between agricultural and non-agricultural land uses by continuing to require a Master Land Development Plan which will detail which area of a site will be used for agricultural uses.

Additionally, it is noted that MROSD has a series of publicly adopted policies and programs that further the purpose, spirit, and intent of the PAD District.

- a. Basic Policy of MROSD, Adopted March 10, 1999.

*“Agriculture and Revenue-Producing Use. The District supports the continued agricultural use of land acquired for open space as an economic and cultural resource, including, but not limited to, grazing, orchards, row crops, and vineyards. ...”*

- b. Agricultural Land Use Policy of MROSD, Adopted February 8, 1978

See Attachment D, MROSD Agricultural Use Policy Statements

- c. Memorandum of Understanding (MOU) Between the San Mateo County Farm Bureau and Midpeninsula Regional Open Space District, dated January 28, 2004.

See Attachment E, MOU Between the San Mateo County Farm Bureau and Midpeninsula Regional Open Space District.

- d. MROSD Coastside Protection Program Service Plan, Coastal Service Plan (Service Plan). This Service Plan governs the disposition of agricultural uses has been previously determined consistent with the County General Plan and is required to adhere to the Service Plan policies including the following:

The Service Plan is required to have staff with agricultural management expertise who manages and coordinates agricultural agreements with agricultural (including ranching and farming uses) lessees on their land.

An adopted objective of the Service Plan, to preserve both existing and potential agricultural operations in order to the keep the maximum amount of prime agricultural land and other lands suitable for agricultural in agricultural production.

Specific mitigations of the Service Plan require performance standards for future public improvement actions to minimize the impacts to agricultural and farmlands, assessed on a case by case basis, including such details as:

- 1) *“...located away from existing prime agricultural lands and Unique Farmlands...”*
- 2) *“...All trails and public facilities should be located so as not to fragment agricultural operations unless no feasible alternative is available. While trails that bisect grazing lands would not be likely to fragment grazing operations, trails that bisect cultivated crops could adversely affect the vitality of agricultural lands and should be avoided. If trails must traverse cultivated lands they shall be permitted only if signs, buffers, other measures....”*
- 3) *“...shall clearly sign trails adjacent to active agricultural areas...to minimize trespassing and conflicts with agricultural users.”*

In addition, the Project Sponsors have noted the following additional practices related to the agricultural uses on lands they own/acquire. Within the Service Plan area, MROSD manages over 8,000 acres of agricultural uses primarily rangeland.

- 4) Grazing and agricultural leases, are a minimum of 5 years, with a 5-year option to renew and preference for local operators.
- 5) Grazing tenant/farm worker housing on larger grazing leases is provided/supported.
- 6) Substantial capital investments in property-specific grazing infrastructure improvements such as fencing, ranch road repair and maintenance, new wells and associated water tanks, distribution lines and troughs, corrals are conducted.
- 7) Development of property-specific Rangeland Management Plans to support and enhance conservation grazing to achieve grassland habitat enhancement is conducted.

## 2. Compliance with Local Coastal Program Policies

As noted above, the proposed zoning and subdivision text amendments are found to be consistent with, and support, LCP Development Review Policy 1.2 below:

As stated in Section 30106 of the Coastal Act, define development to mean:

*On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or 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;** change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).*

*As used in this section, "structure" includes, but is not limited to, any buildings, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.*

3. Compliance with the Williamson Act

Amendments to the Zoning and Subdivision Ordinances do not affect the County's Williamson Act Program (Program). Eligibility requirements for agricultural contracts are unchanged by the proposed text amendments and the requirement for a private landowner to maintain Program compliance, including returning Assessor's Office Agricultural Questionnaires, will be evaluated when future development permits are submitted.

**ATTACHMENTS**

- A. Proposed Draft Zoning/Subdivision Text Amendments
- B. Map of Full Project Extent
- C. Map San Mateo County Coastal Zone – Project Sponsors and Other Publicly Owned Lands
- D. MROSD Agricultural Use Policy Statements, Adopted February 8, 1978
- E. Memorandum of Understanding (MOU) Between the San Mateo County Farm Bureau and Midpeninsula Regional Open Space District, dated January 28, 2004
- F. Map of Pescadero – Project Sponsors and Other Publicly Owned Lands

ATTACHMENT A  
Proposed Draft Zoning/Subdivision Text Amendments

DRAFT\*  
PROPOSED ZONING TEXT AMENDMENTS

\*Proposed New text – ***bold, italicized***

\*Proposed Deleted Text – ~~strikethrough~~

ZONING REGULATIONS

1. Ch. 21A “PAD” District (Planned Agricultural District) – 3 Sections.

a. Section 6363.B. “Parcel Size. Non-Agricultural Parcels.”:

B. Non-Agricultural Parcels

For any parcel created after the effective date of this ordinance 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,*** ~~Non-agricultural~~ parcels shall be as small as possible, and when used for residential purposes shall not exceed 5 acres. All non-agricultural parcels shall be clustered (in one or as few clusters as possible), and sited in locations most protective of existing and potential agricultural uses.

b. Section 6364.A. “Procedural Criteria for Issuance of a Planned Agricultural Permit. Master Land Division Plan”:

A. 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*** ~~Division~~ for non-agricultural parcels shall be as small as practicable, not to exceed 5 acres when used for residential purposes, and shall ensure that minimum domestic well water and on-site sewage disposal area requirements are met. Division shall be permitted in phases, and all future divisions occurring on land for which a plan has been filed must conform to that plan. Master Land Division



Plans shall not be required for land divisions which solely provide affordable housing, as defined by LCP Policy 3.7 on March 25, 1986.

**c. Section 6364.B. “Easements on Agricultural Parcels”**

**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 ordinance) and farm labor housing. The covenant shall specify that, anytime after three years from the date of recordation of the easement, land within the boundaries of the easement may be converted to other uses consistent with open space (as defined in the California Open Space Lands Act of 1972 on January 1, 1980) upon the finding that changed circumstances beyond the control of the landowner or operator have rendered the land unusable for agriculture and upon approval by the State Coastal Commission of a Local Coastal Program amendment changing the land use designation to open space. Uses consistent with the definition of Open Space shall mean all those uses specified in the Resource Management Zone (as in effect on November 18, 1980). Any land use allowed on a parcel through modification of an agricultural use easement shall recognize the site’s natural resources and limitations. Such uses shall not include the removal of significant vegetation (except for renewed timber harvesting activities consistent with the policies of the Local Coastal Program), or significant alterations to the natural landforms. **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.**

**2. Ch. 36 Resource Management-Coastal Zone (RM-CZ) District – 1 Section.**

**a. Section 6906.1 “Conservation Open Space Easement”**

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.**

## SUBDIVISION ORDINANCE

### 3. Subdivision Regulations, Chapter 4 Exactions, Article 9 Agricultural Protection in the Planned Agricultural District - 1 Section.

#### a. Section 7067 – Exemptions

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

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

### 4. Subdivision Regulations, Chapter 4 Exactions, Article 10 Open Space Preservation in the Resource Management/Coastal Zone District

#### a. Section 7071 – Exemptions

1. 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.

**2. Pursuant to LCP Policy 1.9.b., the requirement to grant a conservation/open space easement does not apply to any parcel included in a land subdivision brought about in connection with the purchase of land by a public agency for the public recreational use.**